EXHIBIT DD 34

DUDUZILE CYNTHIA MYENI

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

DOCUMENT: AFFIDAVIT OF MS DUDUZILE CYNTHIA MYENI.

DATED AT **JOHANNESBURG** ON THIS THE **23RD** DAY OF **OCTOBER 2020**.

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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,

DUDUZILE CYNTHIA MYENI,

do hereby make oath and say that:

INTRODUCTION

1. I am an adult female and the former Chairperson of the Board of the South African Airways SOC Ltd ("**SAA**"), residing at 102 Kolsterkring, Meerensee, Richards Bay.

2. I was Chairperson from early 2013 and exited the board of SAA at the end of my term in 2017.

3. The facts contained in this affidavit are, save where the contrary appears from the context, within my personal knowledge and are to the best of my belief both true and correct.

4. I depose to this affidavit at the request of the Commission of Inquiry into State Capture (the "**Commission**"). To the extent possible I will deal with the issues raised in the Chairperson's directive of 9 October 2020.

DCM
SP

5. I understand that I am legally required to furnish the Commission with answers to the issues raised. However, I am also aware that I am entitled to refuse to answer those questions that, in my view, relate to matters for which the judgment of Tolmay J states that I must be investigated or charged[1]. To this extent, I limit my affidavit to referring the Commission to the answers I have already given in court during my appearance in the matter brought against me by the Organisation Undoing Tax Abuse ("**OUTA**") and the South African Airways Pilots Association ("**SAAPA**").

6. I am also apprehensive that the issues in respect of which the Commission requires my answers are pending before court since I have lodged an appeal against the orders of Tolmay J. In this regard, the following background is relevant:

6.1. During 2017 OUTA and SAAPA brought an action in the North Gauteng High Court to have me declared a delinquent director in terms of section 162 of the Companies Act 71 of 2008. The action placed reliance on allegations pertaining to my tenure as Chairperson of SAA.

6.2. The majority of the documents used by OUTA as evidence in that trial were documents of the Commission and bore the letterheads of the Commission. I assume that given Regulation 11 (3) of the Commission, OUTA had obtained permission of the Chairperson to use its documents as evidence in the case against me.

6.3. In her judgment handed down on 27 May 2020, Tolmay J orders the National Prosecutions Authority to consider charging me for the issues I

[1] See Order (d) of the Tolmay J judgment.

DCM
S.P

am now directed to answer. A copy of the judgment is attached hereto as Annexure "**DM1**".

7. As a result, I reserve my rights to refuse to respond to questions that, in my view, affect my right to remain silent in the event that the wish of Tolmay J for me to be charged is realized. I have noted the Commission's reference to Rule 8 (2), however, I am advised that the recent amendments to the Commission's rules, render this guarantee meaningless since the Commission and law enforcement agencies are already in agreement to share information for prosecution purposes. I am advised that this amendment, in effect, violates my constitutional right to remain silent.

8. While I will respect the Commission and its directive that I must appear before it on 4 November 2020, I advise the Commission that I wish to exercise my right to remain silent. I do so in anticipation of the order of Tolmay J, which directs the NPA to consider prosecuting me.

PURPOSE OF THE AFFIDAVIT

9. The purpose of this affidavit is therefore to refer the Commission to those documents that are relevant to the issues raised in the directive and may assist the Commission in its work. The issues in respect of which the Chairperson's directive requires my answers are stated therein as follows:

9.1. South African Airways SOC Limited – 15bn capital raising in 2015/16;

9.2. Use of whistle-blower reports;

9.3. Use of State Security Agency Resources;

DCM
S.P

9.4. Complaints by six SAA Board Members in January 2014;

9.5. Meeting convened between Mr. Tsotsi and President Zuma;

9.6. Dealings with Bosasa Group of Companies;

9.7. Involvement in criminal investigations concerning Bosasa Group;

9.8. 30% set aside policy during tenure as SAA Chairperson;

9.9. SAA Board's decision to cancel tender awarded to LSG Sky Chefs;

9.10. Legal fees paid by SAA to Nick Linnell and reimbursements to myself;

9.11. Isibonelo Construction and payments to Jacob Zuma Foundation; and

9.12. Meeting with President Zuma and Nhlanhla Nene in November 2015.

10. In the Commission's Summons directing me to appear as a witness the following additional questions that are not covered in the Chairperson's Rule 10(6) directive are mentioned:

10.1. Airbus Deal and issues arising with National Treasury;

10.2. Emirates MOU and interactions with President Zuma;

10.3. Allegation in Beeld newspaper in May 2014;

10.4. Moratorium imposed on SAA Board Meetings in 2014;

10.5. Ground handling contract between SAA and Swissport South Africa;

10.6. Issues relating to the establishment of SAA route to Khartoum;

DCM
S.P

10.7. Disciplinary proceedings instituted against Stimpel, Mpshe and Dahwa; and

10.8. Criminal complaint regarding the award of components tender between AAR and JM Aviation.

11. I limit the contents of this affidavit to these questions in order to exercise my right not to incriminate myself. Accordingly, and for the reason stated above, I merely refer the Commission to the documentation that, in my view, are relevant to the specific issues raised by the Commission in its directive. Where I have not referred to any specific document, I state the reason for my failure to answer the question.

12. I also raise my own concerns about prejudicial comments that have already been made by the Commission in my absence. I make reference at the end of this affidavit to the specific comments made by the Chairperson that appeared to mean that the Chairperson has already declared me guilty of some offense.

13. I hereunder refer the Commission to the specific annexures that are relevant to the specific issues in respect of which I am directed to give an explanation.

South African Airways SOC Limited - 15bn capital raising in 2015/16

14. In respect of this issue, I refer the Commission to annexure "**DM2**" which is attached to this affidavit;

Use of whistle-blower reports

15. In respect of this issue, I refer the Commission to annexure "DM2" which is attached to this affidavit.

DCM
SP

Use of State Security Agency Resources

16. I am advised that in view of the possibility that the National Prosecuting Authority may want to charge me in accordance with the order of Tolmay J, I do not have to answer this question.

Complaints by six SAA Board Members in January 2014

17. In respect of this issue, I refer the Commission to annexure "DM2" which is attached to this affidavit.

Meeting convened Mr. Tsotsi and President Zuma

18. In respect of this issue, I refer the Commission to annexure "**DM3**" which is attached to this affidavit.

Dealings with Bosasa Group of Companies

19. I am advised that in view of the possibility that the National Prosecuting Authority may want to charge me in accordance with the order of Tolmay J, I do not have to answer this question.

Involvement in criminal investigations concerning Bosasa Group

20. I am advised that in view of the possibility that the National Prosecuting Authority may want to charge me in accordance with the order of Tolmay J, I do not have to answer this question.

30% set aside policy during tenure as SAA Chairperson

21. In respect of this issue, I refer the Commission to annexure "DM2" which is attached to this affidavit.

DCM
SP

SAA Board's decision to cancel tender awarded to LSG Sky Chefs

22. I am advised that in view of the possibility that the National Prosecuting Authority may want to charge me in accordance with the order of Tolmay J, I do not have to answer this question.

Legal fees paid by SAA to Nick Linnell and reimbursements to myself

23. I am advised that in view of the possibility that the National Prosecuting Authority may want to charge me in accordance with the order of Tolmay J, I do not have to answer this question.

Isibonelo Construction and payments to Jacob Zuma Foundation

24. In respect of this issue, I refer the Commission to annexures "**DM4**", "**DM5**" and "**DM6**" which are attached to this affidavit.

Meeting with President Zuma and Nhlanhla Nene in November 2015

25. I am advised that in view of the possibility that the National Prosecuting Authority may want to charge me in accordance with the order of Tolmay J, I do not have to answer this question.

ADDITIONAL ISSUES RAISED IN THE SUMMONS

26. In respect of the issues set out in the Commission's Summons for me to appear as a witness, I make the following references to the relevant documentation:

Airbus Deal and issues arising with National Treasury

27. In respect of this issue, I refer the Commission to annexures "DM1" and "DM2"

DCM
S.P

which are attached to this affidavit.

Emirates MOU and interactions with President Zuma

28. In respect of this issue, I refer the Commission to annexures "DM1" and "DM2" which are attached to this affidavit.

Allegation in Beeld newspaper in May 2014

29. I am advised that in view of the possibility that the National Prosecuting Authority may want to charge me in accordance with the order of Tolmay J, I do not have to answer this question.

Moratorium imposed on SAA Board Meetings in 2014

30. In respect of this issue, I refer the Commission to annexures "DM1" and "DM2" which are attached to this affidavit.

Ground handling contract between SAA and Swissport South Africa

31. In respect of this issue, I refer the Commission to annexures "**DM7**", "**DM8**", "**DM9**", "**DM10**", "**DM11**", "**DM12**", and "**DM13**" which are attached to this affidavit.

Issues relating establishment of SAA route to Khartoum

32. In respect of this issue, I refer the Commission to annexures "DM1" and "DM2" which are attached to this affidavit.

Disciplinary proceedings instituted against Stimpel, Mpshe and Dahwa

33. In respect of this issue, I refer the Commission to annexures "DM1" and "DM2"

DCM SP

which are attached to this affidavit.

Criminal complaint regarding the award of components tender between AAR and JM Aviation

34. In respect of this issue, I refer the Commission to annexures "DM7", "DM8", "DM9", "DM10", "DM11", "DM12", and "DM13" which are attached to this affidavit.

PREJUDICIAL UTTERANCES BY THE COMMISSION

35. As stated in the introductory part of this affidavit, I also wish to raise my concern with comments or statements that have been made by the Chairperson in my absence, almost concluding that I am guilty of some offenses. I am deeply concerned that the Commission has, through these statements, prejudged me. I simply raise them to register my apprehension and concern about being judged in my absence and before I even appear before the Commission. I cite below some of the utterances that I view as prejudicial against me.

36. On 4 September 2020 during the testimony of Vincent Smith, the chairperson mentioned my name in a way that unduly singled me out in general remarks that he made when he stated the following:

> *"I think the only other matter I want to mention, and again you might not be able to say anything, you know if Mr. Agrizzi's evidence before this Commission is true or some of it is true one gets the impression that BOSASA may have wanted to capture some people in Parliament, Legislature, some people in Cabinet and even the President during President Zuma's time.*

DCM
S.P

I am saying this because they have given evidence, Mr. Agrizzi gave evidence about alleged payments that he said were being made by BOSASA to the Jacob Zuma Foundation through Ms. Dudu Myeni, that if I understand Mr. Agrizzi's evidence correctly were meant for the then President and then of course he has given evidence about some people, some Ministers, he has given evidence about people in the legislature. It may well be that if his evidence is true BOSASA sought to do this. Again, it is something that you might not be able to say anything about."

CONCLUSION

37. The documents to which I have referred the Commission should, in my view, assist the Commission in respect of the issues it directed me to answer. Unfortunately, as I have stated above, I am unable, in the face of a court order that I must be charged, forsake my constitutional right not to answer questions, which may be self-incriminating.

38. I do understand that the contents of this affidavit may, as a result of my exercising of my right, be inadequate for what the Commission sought to obtain. I am constrained by the order suggesting that I must be charged and cannot risk forsaking my right in terms of section 35 of the Constitution.

DEPONENT

I HEREBY CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED THAT SHE

KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, WHICH WAS **SIGNED** AND **SWORN TO** BEFORE ME, A COMMISSIONER OF OATHS, AT Garsfontein ON THIS THE 22nd DAY OF **OCTOBER 2020**, 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.

pol1962 Cst Mahlangu SP

COMMISSIONER OF OATHS

Names: Sesana Paiesa Mahlangu

Address: 277 Johnny Claassen Street
Garsfontein

Capacity: Constable

SOUTH AFRICAN POLICE SERVICE
GARSFONTEIN
2020 -10- 23
COMMUNITY SERVICE CENTRE
SUID-AFRIKAANSE POLISIEDIENS

COMMISSION OF INQUIRY INTO STATE CAPTURE

DM1 9-1

IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

Case number: 15996/2017

Date:

DELETE WHICHEVER IS NOT APPLICABLE
(1) REPORTABLE: YES/NO
(2) OF INTEREST TO OTHERS JUDGES: YES/NO
(3) REVISED

....
DATE SIGNATURE

In the matter between:

ORGANISATION UNDOING TAX ABUSE	**FIRST PLAINTIFF**
SOUTH AFRICAN AIRWAYS PILOTS' ASSOCIATION	**SECOND PLAINTIFF**
AND	
DUDUZILE CYNTHIA MYENI	**FIRST DEFENDANT**
SOUTH AFRCAN AIRWAYS SOC LTD	**SECOND DEFENDANT**
AIR CHEFS SOC LTD	**THIRD DEFENDANT**
MINISTER OF FINANCE	**FOURTH DEFENDANT**

JUDGMENT

TOLMAY, J:

INTRODUCTION

[1] The Organisation Undoing Tax Abuse (OUTA) and the South African Airways Pilot Association (SAAPA) issued summons against Ms Duduzile Myeni (Ms Myeni), South African Airways Soc Ltd (SAA), Air Chefs Soc Ltd (Air Chefs) and the Minister of Finance. No relief was sought against SAA, Air Chefs and the Minister of Finance.

[2] The plaintiffs sought an order declaring Ms Myeni, who was the former non-executive chairperson of SAA to be declared a delinquent director in terms of section 162(5) of the Companies Act 71 of 2008 (Companies Act).

[3] It is common cause that Ms Myeni was appointed as a non-executive director of the SAA Board (the Board) on or about 28 September 2009. She became the acting chairperson of the Board on or about 7 December 2012. On or about January 2015 Ms Myeni was appointed chairperson, and on 2 September 2016 she was re-appointed as chairperson. She served as such until 2017.

[4] It is also common cause, on the pleadings, that she was a member of the accounting authority of SAA as contemplated in the Public Finance Management Act, Act 1 of 199 (PFMA). She acted as a non-executive director of Air Chefs, a subsidiary of SAA from about 28 September 2009 to 8 March 2013 and from 28 May 2015 to 30 September 2016.

[5] In the pleadings the plaintiffs focused on four sets of transactions namely the so called Emirates deal, the Airbus deal, the BNP Capital (Pty) Ltd deal and the Ernest and Young report, to support their claim. During the trial the plaintiffs only led evidence regarding the Emirates deal and the Airbus Swap transaction to prove their case. It was argued on their behalf that they decided to do so, in order to ensure that the trial could be finalised in the allotted five weeks and they were satisfied that sufficient evidence was led to prove delinquency, as envisaged in section 162(5) of the Companies Act.

[6] The plaintiffs submitted that Ms Myeni's alleged failures and conduct also constitutes wilful and grossly negligent breaches of section 50, 51 and 55 of the PFMA and constitutes criminal offences under section 86(2) of the PFMA. They were accordingly of the view that this matter should also be referred to the National Prosecution Authority (NPA) for further investigation.

[7] The plaintiffs called Mr Nico Bezuidenhout, the former Acting CEO of SAA and current CEO of Mango, Mr Sylvain Bosc, SAA's former

General Manager: Commercial (also referred to as the Chief Commercial Officer) and now Senior Vice President, Europe at Qatar Airways. Ms Thuli Mpshe, also a former SAA Acting CEO and General Manager: Human Resources, currently serving as the Acting General Manager: Human Capital (HR) at South African Express, Mr Wolf Meyer, former Chief Financial Officer (CFO) of SAA and current CFO of Saudi Arabia Airlines. Ms Avril Halstead, a National Treasury official, who previously served as the Chief Director for Sector Oversight, in which role she was responsible for overseeing SOE's. Mr Carl Stein, a practising attorney, the author of a textbook on company law, and an expert on corporate governance. Ms Myeni was the only witness for the defence.

THE LEGAL FRAMEWORK

[8] The plaintiffs' claim is based on section 162(5) of the Companies Act which reads in relevant part as follows:

"*(5) A court must make an order declaring a person to be a delinquent director if the person-*
(a) …
(i) …
(ii) …
(b) …
(c) while a director-
(i) grossly abused the position of director;
(ii) took personal advantage of information or an opportunity, contrary to section 76 (2) (a);
(iii) intentionally, or by gross negligence, inflicted harm upon the company or a subsidiary of the company, contrary to section 76 (2) (a);
(iv) acted in a manner-
(aa) that amounted to gross negligence, wilful misconduct or breach of trust in relation to the performance of the director's functions within, and duties to, the company; or
(bb) contemplated in section 77 (3) (a), (b) or (c);
(d) …

(e) …
(f) …
(i) …
(ii) …"

[9] Although OUTA does not fall under the categories mentioned in section 162(2) of entities empowered to launch such an application, this Court found in an interlocutory application that OUTA qualified to bring a delinquency application based on sec 157(1)(d) of the Companies Act. [1] In any event SAAPA's legal standing was never challenged and was common cause, at all times. Even in the event that another Court may find that this Court erred in finding that OUTA had legal standing, there was at all times at least one plaintiff, namely SAAPA who undisputedly had the necessary standing to proceed with the matter.

[10] A declaration of delinquency under section 162(5) of the Companies Act has the effect that a person may not serve as a director of a company for a minimum of seven years.[2] This is however subject to the Court's power to relax the order, after three years and to place the director under probation in terms of section 162(11)(a).

[11] In **Gihwala v Grancy Property Ltd**,[3] the SCA stated that section 162 has a protective purpose:

[1] Organisation Undoing Tax Abuse & another v D C Myeni (15996/2017) (12 December 2019
[2] Section 162(6)(b)
[3] 2017 (2) SA 337 (SCA) (Gihwala)

"... Its aim is to ensure that those who invest in companies, big or small, are protected against directors who engage in serious misconduct of the type described in these sections. That is conduct that breaches the bond of trust that shareholders have in the people they appoint to the board of directors. Directors who show themselves unworthy of that trust are declared delinquent and excluded from the office of director. It protects those who deal with companies by seeking to ensure that the management of those companies is in fit hands. And it is required in the public interest that those who enjoy the benefits of incorporation and limited liability should not abuse their position."[4]

[12] It was also stated in **Gihwala** that a declaration of delinquency can only be made in consequence of serious misconduct.[5] The constitutionality of sec 162 was attacked in that matter, but it was found that it passes Constitutional muster and it was stated as follows: "*... Patently it is an appropriate and proportionate response by the legislature to the problem of delinquent directors and the harm they may cause to the public who place their trust in them*"[6].

[13] Where the grounds for a delinquency order have been established under section 162(5), a court "must" grant this order. It has no

[4] Gihwala par 144
[5] Gihwala par 149
[6] Gihwala par 145

discretion in this regard.[7] A court only has a discretion in respect of the conditions that may be attached to the order.[8]

[14] In **Gihwala**, the SCA stated that the four grounds for delinquency under section 162(5)(c) all share the common feature that they involve "*serious misconduct on the part of a director.*"[9] It was explained as follows:

(a) First, in terms of sub-section 162(5)(c)(i):

> "... *[O]ne starts with a person who grossly abuses the position of director... . We are not talking about a trivial misdemeanour or an unfortunate fall from grace. Only gross abuses of the position of director qualify.*"[10]

(b) Sub-section (ii) involves:

> "... *taking personal advantage of information or opportunity available because of the person's position as a director. This hits two types of conduct. The first, in one of its common forms, is insider trading, whereby a director makes use of information, known only because of their position as a director, for personal advantage or the advantage of others. The second is where a director appropriates a business opportunity that should have accrued to the company. Our law has deprecated that for over a century.*"[11]

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[7] Gihwala, par 140.
[8] Section 162(10)
[9] Gihwala par 149 and in Lewis Group Ltd v Woollam and Others 2017 (2) SA 547 (WCC) par 18, the court held that "[t]he relevant causes of delinquency entail either dishonesty, wilful misconduct or gross negligence. Establishing so called 'ordinary' negligence, poor business decision making or misguided reliance by a director on incorrect professional advice will not be enough".
[10] Gihwala, par 143.
[11] par 143. This sub-section is qualified by reference to section 76(2)(a) which does not limit its scope and provides:

> *"(2) A director of a company must -*
> *(a) not use the position of director, or any information obtained while acting in the capacity of a director -*
> *(i) to gain an advantage for the director, or for another person other than the company or a wholly owned subsidiary of the company; or*
> *(ii) to knowingly cause harm to the company or a subsidiary of the company"*

(c) Sub-section (iii) applies where "*the director has intentionally or by gross negligence inflicted harm upon the company or its subsidiary.*"[12]

(d) Sub-section (iv) applies –

> "*... where the director has been guilty of gross negligence, wilful misconduct or breach of trust in relation to the performance of the functions of director or acted in breach of s 77(3)(a) – (c). That section makes a director liable for loss or damage sustained by the company in consequence of the director having —*
>
> *'(a) acted in the name of the company, signed anything on behalf of the company, or purported to bind the company or authorise the taking of any action by or on behalf of the company, despite knowing that the director lacked the authority to do so;*
>
> *(b) acquiesced in the carrying on of the company's business despite knowing that it was being conducted in a manner prohibited by section 22(1) [A company must not carry on its business recklessly, with gross negligence, with intent to defraud any person or for any fraudulent purpose];*
>
> *(c) been a party to an act or omission by the company despite knowing that the act or omission was calculated to defraud a creditor, employee or shareholder of the company, or had another fraudulent purpose . . .*"[13]

[15] It was noted that "*gross negligence*" in sub-sections 162(5)(c)(ii) and (iv) is the equivalent of "*recklessness*".[14] Recklessness and gross negligence have been described as involving:

(a)"*... a complete obtuseness of mind or, where there is no conscious risk-taking, a total failure to take care ...;*"[15]

[12] Gihwala, par 143.
[13] Gihwala par 143
[14] Gihwala par 144

(b)"... *an entire failure to give consideration to the consequences of one's actions, in other words, an attitude of reckless disregard of such consequences*", which includes both foreseen and unforeseen consequences;[16]

(c) *carrying [on the business of a company] by conduct which evinces a lack of any genuine concern for its prosperity*"[17].

[16] An objective and subjective standard must be applied in assessing gross negligence. This is made clear by section 76(3)(c) of the Companies Act, which will be dealt with later on. Objectively, Ms Myeni's conduct must be weighed against the standards expected of a reasonable director in her position. Subjectively, Ms Myeni's conduct must also be weighed against the skills, qualifications and experience she possessed. More could be expected of an experienced director, particularly a director who was on the SAA board for more than nine years and was, by her own account, a "*corporate governance expert*".

[17] In **Msimang NO v Katuliiba**,[18] the meaning of wilful conduct as envisaged by section 162(c)(iv) was described with reference to

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[15] Transnet Ltd t/a Portnet v Owners of the MV "Stella Tingas" and Another 2003 (2) SA 473 (SCA) at par 7.

[16] Philotex (Pty) Ltd and Others v Snyman and Others; Braitex (Pty) Ltd and Others v Snyman and Others 1998 (2) SA 138 (SCA) at 143C – 144A; MV t/a Portnet v Owners of the MV Stella Tingas & Another 2003 (2) (SA 473 (SCA) at par 7; S v Dhlamini 1988 (2) SA 302 (A) at 308D–E.

[17] Tsung and Another v Industrial Development Corporation of South Africa Ltd and Another 2013 (3) SA 468 (SCA) at par 31.

[18] [2013] 1 All SA 580 (GSJ); see also KLM Royal Dutch Airlines v Hamman 2002(3) SA 818 (W) [Msimang]

Rustenburg Platinum Mines Ltd v South African Pan American World Airways Inc[19] as follows:

> *"[38] The meaning of the concept "wilful conduct" has also been considered by our courts in the past. In Rustenburg Platinum Mines Ltd v South African Pan American World Airways Inc [1979] 1 Lloyds LR 19,(QB (Com Ct) 564, Ackner J (at 569) held:*
>
> *it is common ground that 'wilful misconduct' goes far beyond negligence, even gross or culpable negligence, and involves a person doing or omitting to do that which is not only negligent but which he knows and appreciates wrong, and is done or omitted regardless of the consequences, not caring what the result of his carelessness maybe."*

[18] Breaches of section 77(3) of the Companies Act also provide grounds for delinquency. This includes knowingly acting without the Board's authority under section 77(3)(a). To establish these grounds of delinquency, Ms Myeni's conduct must be assessed in light of her duties as a director under the common law, the Companies Act and the PFMA. Directors of SOE's are not only subject to the duties of ordinary company directors, but they are also subject to duties under the PFMA.

[19] Under the Companies Act, the board of directors of a company have collective and ultimate responsibility for management of the company in terms of section 66 (1). Section 66(1) provides that:

> "*the business and affairs of a company must be managed by or under the direction of its board, which has the authority to exercise all of the powers and perform any of the functions of the company, except to the extent that this Act or the company's memorandum of incorporation provides otherwise.*"

[19] Msimang par 38

[20] However, collective responsibility does not exclude individualised responsibility and liability for each of the board members. The individual duties of all company directors are set out in the Companies Act. In particular, sections 76(2)(a) and 76(3) thereof. The fiduciary duties of directors and the duties of care, skill and diligence are entrenched in these sections. Section 76(2) and (3) provides in relevant part as follows:

> ***76 Standards of directors conduct***
>
> *(2) A director of a company must-*
>
> *(a) not use the position of director, or any information obtained while acting in the capacity of a director-*
>
> *(i) to gain an advantage for the director, or for another person other than the company or a wholly-owned subsidiary of the company; or*
>
> *(ii) to knowingly cause harm to the company or a subsidiary of the company; and*
>
> ...
>
> *"(3) Subject to subsections (4) and (5), a director of a company, when acting in that capacity must exercise the powers and perform the functions of director-*
>
> *(a) in good faith and for a proper purpose;*
>
> *(b) in the best interests of the company; and*
>
> *(c) with the degree of care, skill and diligence that may reasonably be expected of a person-*
>
> > *(i) carrying out the same functions in relation to the company as those carried out by that director; and*
> >
> > *(ii) having the general knowledge, skill and experience of that director."*

[21] Board members are both collectively and individually responsible. Collective responsibility means that all directors have a duty to ensure

the proper management of the company, but this does not absolve directors of individual liability. The collective responsibility of the Board imposes individual duties on directors.

[22] Individual directors may be held jointly and severally liable for wrongdoing. Section 77(2)(a) & (b) of the Companies' Act states that:

> "*A director may be held liable*
>
> (a) *in accordance with the principles of the common law relating to a breach of a fiduciary duty, for any loss, damages or costs sustained by the company as a consequence of any breach by the director of a duty contemplated in section 72, 76(2) or 76(3)(a) or (b)*
>
> (b) ."

[23] Section 77(6) states that the "*the liability of a person in terms of this section is joint and several with any other person who is or may be held liable for the same act.*" This Court already held in the joinder application brought by Ms Myeni that plaintiffs are entitled to pick their target from a group of wrongdoers.[20] The applicable legislation makes it clear that a director cannot avoid individual liability, by blaming the so called "collective".

[24] The plaintiffs' reiterated that they did not seek to exonerate other SAA directors, who might have been involved in unlawfully activities, but as a private entity with limited means they leave it to law enforcement agencies to investigate possible transgressions by other directors.

[20] Myeni v Organisation Undoing Tax Abuse NPC & Others (15996/2017 [2019] SAGPPHC 565 (2 December 2019) par 70

[25] Sub-section 76(4), read with sub-section (5) of the Companies Act, contains the so-called "*business judgment rule*". In terms of this rule, a director could be protected from an allegation of a breach of the duty to act in the best interests of the company (section 76(3)(b)) and with care, skill and diligence (section 76(3)(c)) where that director has:

(a) taken reasonably diligent steps to become informed about the matter;

(b) either had no conflict of interest in relation to the matter or complied with the rules on conflict of interests; and

(c) had a rational basis for believing, and did believe, that her decision was in the best interest of the company.[21]

[26] The "*business judgment principle*" can only protect those who act in good faith and have taken reasonable diligent steps to become informed. Wilful misconduct, recklessness and dishonesty are not protected.

[27] The duties of company directors are amplified by the PFMA. SAA is listed as a major public entity in terms of Schedule 2 to the PFMA and its Board is the designated "*accounting authority*".[22] The SAA Board is in turn accountable to the "executive authority" under the PFMA. Since December 2014, the Minister of Finance has served in this role.

[21] Henochsberg, On the Companies Act 71 0f 2008, issue 18, p 298 (20) – 299 (2)
[22] PFMA section 49(2)(a).

[28] In terms of section 50 of the PFMA, all members of the SAA Board are subject to heightened fiduciary duties. Section 50 reads as follows:

> *"Fiduciary duties of accounting authorities:*
>
> *(1) The accounting authority for a public entity must-*
>
> *(a) exercise the duty of utmost care to ensure reasonable protection of the assets and records of the public entity;*
>
> *(b) act with fidelity, honesty, integrity and in the best interests of the public entity in managing the financial affairs of the public entity;*
>
> *(c) on request, disclose to the executive authority responsible for that public entity or the legislature to which the public entity is accountable, all material facts, including those reasonably discoverable, which in any way may influence the decisions or actions of the executive authority or that legislature; and*
>
> *(d) seek, within the sphere of influence of that accounting authority, to prevent any prejudice to the financial interests of the state.*
>
> *(2) A member of an accounting authority or, if the accounting authority is not a board or other body, the individual who is the accounting authority, may not-*
>
> *(a) act in a way that is inconsistent with the responsibilities assigned to an accounting authority in terms of this Act; or*
>
> *(b) use the position or privileges of, or confidential information obtained as, accounting authority or a member of an accounting authority, for personal gain or to improperly benefit another person.*
>
> *..."*

[29] Section 51 of the PFMA sets out the further responsibilities of the Board. It provides, in relevant part, as follows:

> *"51 General responsibilities of accounting authorities*
>
> *(1) An accounting authority for a public entity-*
>
> *(a) must ensure that that public entity has and maintains-*

> *(i) effective, efficient and transparent systems of financial and risk management and internal control;*
>
> ...
>
> *(iii) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;*
>
> ...
>
> *(b) must take effective and appropriate steps to-*
>
> ...
>
> *(ii) prevent irregular expenditure, fruitless and wasteful expenditure, losses resulting from criminal conduct, and expenditure not complying with the operational policies of the public entity; and*
>
> *(iii) manage available working capital efficiently and economically;*
>
> *(c) is responsible for the management, including the safeguarding, of the assets and for the management of the revenue, expenditure and liabilities of the public entity;*
>
> ...
>
> *(f) is responsible for the submission by the public entity of all reports, returns, notices and other information to Parliament or the relevant provincial legislature and to the relevant executive authority or treasury, as may be required by this Act;*
>
> ...
>
> *(h) must comply, and ensure compliance by the public entity, with the provisions of this Act and any other legislation applicable to the public entity."*

[30] The Board has a particular duty to give effect to SAA's internal policies. In doing so, the Board is specifically enjoined to prevent "*expenditure not complying with the operational policies*"[23] of SAA. In **Allpay Consolidated Investment Holdings (Pty) Ltd v Chief Officer of the**

[23] PFMA, section 51(1)(b)(ii))

South African Social Security Agency[24] the Constitutional Court said that a public entity's internal policies are "*not merely internal prescripts that [an entity] may disregard at whim.*"[25]

[31] The SAA Board is also subject to more stringent financial reporting duties than ordinary companies. These duties are set out in sections 55 and 65 of the PFMA.

[32] The fact that someone is a "non-executive member" does not absolve her of any legal responsibility. The legal duties of all directors are the same. These principles were summarised in **Howard v Herrigel And Another NNO**[26] where it was stated that both executive and non-executive directors are subject to the same legal duties, which include duties of care, skill and diligence. Compliance with these duties requires an assessment of the role actually played by the director, the information available to her and the information that could have been available. If one considers the powers executed by non-executive directors, it is clearly appropriate that no distinction should be drawn between the two groups.

[33] The implication of the aforesaid is that if a non-executive director and/or a chairperson involved him or herself in the day to day operation, their duties do not change, but their conduct might be

[24] 2014(1) SA 604 (CC) (AllPay)
[25] AllPay at par 40
[26] 1991 (2) SA 660 (A) at 678

judged more stringently. This is reinforced by sec 76(3)(c) of the Companies Act referred to above.

[34] The special obligations of the chairperson of a Board are detailed in the so-called "King Codes". An expert witness testified during the trial that these Codes, which are commissioned by the Institute of Directors in South Africa, provide guidelines on sound corporate governance. Four sets of King reports and accompanying King Codes have been issued over the years. King III, which was issued in 2009, was applicable during the relevant events that are covered in this case.

[35] In terms of SAA's 2014/2015 Shareholder's Compact, SAA bound itself to observe the King III principles. Clause 3.1 of the applicable 2014 / 2015 Shareholder's Compact provided that:

> *The Parties are bound by the principles of the Protocol, the South African Airways Act, 2007, the Companies Act, the PFMA and applicable Treasury Regulations in endeavouring to enhance effective business performance and to maintain good corporate governance, including the principles contained in the King Report, within South African Airways."*

[36] Principle 2.16 of King III, which set out the specific responsibilities of the chairperson prescribed that the chairperson should be an independent, non-executive director. The chairperson was responsible for "*setting the ethical tone for the board and the company*".[27] The chairperson must also provide "*overall leadership to the board without limiting the principle*

[27] King III par 40.1

of collective responsibility for board decisions, while at the same time being aware of the individual duties of board members".[28]

[37] The aforesaid principal importantly emphasizes the responsibility of the Chairperson to take responsibility for the ethical tone of the company. A failure to do so may be indicative of a failure to act in accordance with the legislation already referred to any may support a finding of delinquency as set out in section 162(5).

[38] It was common cause that SAA was at all relevant times governed by the following documents:

(a) The Memorandum of Incorporation (MOI)

The preamble of the MOI records that SAA is subject to the provisions of the Companies Act and the PFMA. It provides the framework for SAA's governance.

(b) The Delegation of Authority Framework, 2011 - 2016

Clause 3.2 states that the DOA was the "master policy" guiding decisions within SAA. Clause 4 determined the matters reserved for Board determination. These included governance, planning and monitoring, setting of SAA strategy and business plans, and approval of the budget, etc. The role of the Board was to monitor and guide, not to make or implement operational decisions.

[28] King III par 40.2.

Clause 5, headed "Matters Delegated by the SAA Group Broad to the SAA Group CEO", provided as follows:

"Subject to the matters reserved for the SAA Board of Directors and the principles applicable to the execution of delegated authority herein contained, the Group Chief Executive Officer of SAA shall have all such powers, functions and duties as may be exercised or done by SAA to give effect to the implementation of the SAA Group Strategy ...".

(c) The Significance and Materiality Framework

This Framework is required by section 54(2) of the PFMA, read with Treasury Regulation 28.3.1. Its purpose was to enable the Minister to exercise effective oversight over major transactions by requiring that certain transactions must be submitted to the Minister for approval and by providing the procedures that must be followed when approval was needed. It noted that the approval of the Minister was not required for the signing of a non-binding memoranda of understanding.

(d) The Shareholders Compact

In terms of the National Treasury Regulations, SAA was required to conclude an annual Shareholders Compact to record the mandatory performance measures and indicators as agreed between the Board and its Shareholder. Clause 4.1 enumerated the obligations of the Board and again invoked the provisions of the Companies Act, the PFMA and the King III Code of Corporate Governance. In particular, The role and responsibilities of the Board were enumerated in clause 12. They included, that the

directors "*shall exercise their skill and fiduciary duties to pursue the objectives and targets as set out in the Corporate Plan.*" It also required that the Board "*accepts the responsibility to direct and guide the business in a proper manner in keeping with good governance practices …*" It recognised the importance of speedy decision-making, and that the Board would use its best endeavours to prevent undue delays with regard to critical decisions.

[39] SAA's strategy at the relevant time was founded on the following policy documents.

(a) The Long-Term Turnaround Strategy (LTTS)

This policy sought to bolster, *inter alia*, SAA's network, alliance and fleet through increasing networks through code-share relationships and embarking on a wide-body fleet replacement plan. In turn, if properly implemented, the LTTS was meant to significantly contribute towards SAA's ongoing Cost Compression Programme which had, at the time of its adoption, already yielded R300 million in savings for SAA in the 2013/2014 financial year.

(b) The Corporate Plan

In its summary, the Plan put primary emphasises on achieving and maintaining commercial sustainability. Some of the key initiatives and targets included the implementation of the Network and Fleet Plan, which was estimated to achieve R2.5 billion in

annualised earnings improvements during the three-year period. Optimisation of Code-Share over the Middle-East. Resolution of the 2002 Airbus A320 order, cancelling the remaining 10 deliveries scheduled for FY16 and FY17 and replacing them with five Airbus A330 aircraft to complement the existing six A330 units within SAA's fleet and extending the existing Airbus A340 fleet leases for approximately six years.

(c) The Comprehensive Network and Fleet Plan

During 2015, following a complete review and analysis of SAA's network and fleet by aviation experts, it was discovered that SAA had the wrong widebody fleet given the current economic (i.e. fuel costs) and competitive environment. As such it was found that the Airbus A330 aircraft would be a cost-effective alternative and thus ideal for SAA's substitution program. In turn, a detailed analysis of SAA's opportunities over the next three years showed that profitability could be restored by 2017. The accompanying Fleet Strategy document further emphasised, among other things, the replacement of the existing Airbuses. The Network and Fleet Plan was adopted not only by the Board, but by an inter-ministerial committee chaired by then Deputy President Ramaphosa.

(d) The 90-Day Action Plan

In this document, SAA sought to outline the key interventions required, as well as high priority board driven interventions.

[40] It is against the aforesaid legal framework and corporate policy documents that the evidence and Ms Myeni's actions must be evaluated to determine whether she should be declared a delinquent director as envisaged in the Companies Act.

THE EMIRATES DEAL

[41] Mr Bezuidenhout, Mr Bosc, Ms Mpshe and Mr Wolf Meyer testified about the Emirates deal. Mr Bezuidenhout and Mr Bosc testified that in 1995 SAA was the first international airline to enter into a code-sharing relationship with Emirates. At that point in time Emirates was a small operator, but over the years it had grown into the largest international airline in the world. It was common cause on the pleadings that this was one of the most profitable areas of SAA's business and generated profits of over R170 million per year. Part of the deal was that SAA could purchase tickets on Emirates flights at reduced rates and sell these on to its customers at a profit for SAA.

[42] Mr Bosc testified that as a result of South Africa's geographical location as an end of hemisphere airline, major international destinations are far away and accordingly it is extremely difficult to run a profitable airline. Australia experiences the same challenge. A further complication was that SAA's international, fleet consisted of four-engined Airbus A340-600 aircraft, which were heavy on fuel. This made it very difficult to conduct these international routes on a profitable basis. SAA's direct flights to major international destinations generally pass over the world's biggest travel hub, the Middle East, which is home to major airlines,

including Emirates, Eithad and Turkish Airlines. These airlines generally offer cheaper connecting flights than SAA and as a result SAA cannot compete with them.

[43] On top of that the Department of Transport (DOT) had granted Emirates a substantial number of weekly flight frequencies to and from South Africa, in terms of a bilateral agreement between the United Arab Emirates (UA) and South Africa. During the time of the FIFA World Cup, DOT increased Emirates's permitted flight frequencies from three weekly flights between Dubai and Johannesburg to four (the fourth frequency). This meant that SAA faced stiffer competition regarding its international routes. The result of all these factors was that SAA was operating a substantial number of loss making international routes. This necessitated an enhanced code-sharing agreement between SAA and a Middle Eastern carrier. It was for this reason that the 2013 LTTS made it a key priority for SAA to increase networks through code-share relationships.

[44] Emirates was SAA's first choice for an expanded code-sharing relationship, according to Mr Bezuidenhout, due to the fact that SAA previously rebuffed Emirates there was an initial reluctance from Emirates to co-operate with SAA. As a result SAA had to look elsewhere for a partner. During 2013 SAA entered into a code-sharing agreement with Etihad, which operates out of Abu Dhabi, which is situated 80 km from Emirates's base in Dubai. Both Mr Bezuidenhout and Mr Bosc confirmed that the Abu Dhabi route made a loss form the onset.

According to the Network and Fleet Plan these losses amounted to approximately R346 million per annum. As a result SAA urgently needed to address these losses. The fact that the Etihad deal ran into difficulties had the advantage of renewing Emirates's interest in doing a deal with SAA. During January 2015 Emirates approached SAA with the proposal for an enhanced code-sharing arrangement. This proposal was forwarded to National Treasury.

[45] Mr Bosc and Mr Bezuidenhout testified that SAA had two key "*bargaining chips*" going into the negotiations with Emirates. The first was that Emirates felt threatened by SAA's new code-sharing relationship with Etihad. Secondly, Emirates sought SAA's support in ongoing litigation with DOT. This litigation related to the fourth frequency and questioned the legality of the agreement that underpinned this arrangement. DOT tried to stop the fourth frequency during 2013. Emirates approached the Court and obtained an interdict to keep the fourth frequency, but DOT was threatening to appeal. Although Emirates sought SAA's support over the fourth frequency, Mr Bezuidenhout, Mr Bosc, Ms Mpshe and Mr Meyer were all clear that SAA had no legal power to determine existing route rights or to determine the course of DOT's litigation with Emirates, but could merely approach DOT to consider the prudency of the litigation, in the light of the prospective code sharing agreement with Emirates.

[46] The Emirates proposal offered a range of benefits for SAA. It was modelled on the deal between Emirates and Qantas, which had helped

to turn that airline around. The key benefit was that Emirates offered SAA an annual minimum revenue guarantee, which was a guaranteed income for SAA to sustain a new route from Johannesburg to Dubai. The Emirates proposal and SAA's own modelling predicted that the minimum revenue guarantee for SAA would amount to approximately USD100 million annually, approximately R1,5 billion per annum at prevailing exchange rate at the time.

[47] Additionally, Emirates was willing to offer a range of other significant strategic benefits to SAA, including the ability to code-share on "non-trunk" routes, meaning the Emirates flights from Dubai to other destinations in Europe and Asia. The establishment of secondment opportunities for SAA pilots and other staff training exchanges and assistance with network planning and potential employment for SAA employees, who were facing possible retrenchment at the time. These benefits were all reflected in the draft MOU.

[48] Mr Bosc and Mr Bezuidenhout further testified that this relationship would have allowed SAA to cancel its loss-making route to Abu Dhabi far sooner. Mr Bosc was tasked with leading the discussions with Emirates and drafting the initial memorandum of understanding (MOU). Mr Bezuidenhout, Mr Bosc and Mr Meyer confirmed that the SAA Board was made aware of the Emirates proposal as soon as the proposal was received, during January 2015.

[49] The plaintiffs' witnesses testified that, in ordinary circumstances, the negotiation of a non-binding MOU would have been a strictly operational matter, to be handled by the SAA executive. Board involvement would only be required at the final stages of approving a binding agreement, after negotiations had been concluded. This was in terms of SAA's Delegation of Authority Framework. The plaintiffs' witnesses stated that this was confirmed repeatedly by Mr Tony Dixon, the Board's resident governance expert, who emphasised that negotiations with Emirates and the conclusion of a non-binding MOU did not need any Board approval. Mr Dixon was due to testify in this trial, but passed away during December 2019, shortly before the trial was due to commence.

[50] While Board approval was not required as a matter of law, Mr Bezuidenhout testified that he nevertheless wished to keep the Board apprised of developments on the Emirates deal, given its importance to the airline and the widespread coverage that it would receive. The conclusion of a non-binding MOU was also a matter that did not require the approval of the shareholder, whose representative at the time was the Minister of Finance. It was common cause on the pleadings that on or about 15 February 2015, the Minister of Finance informed Emirates, who in turn informed SAA, that the National Treasury regarded the Emirates proposal as an operational matter in which the executive branch of government would not interfere.

[51] While the discussions with Emirates were continuing, SAA was also in the process of preparing its revised Network and Fleet Plan. This was

developed with the help of an external consultancy, Royal Haskoning DHV, a leading international expert on these matters. A draft Network and Fleet Plan was prepared in February 2015 and the final Network and Fleet Plan was approved on 2 April 2015.

[52] The Network and Fleet Plan specifically recommended an enhanced code-sharing arrangement with Emirates. Its recommendations included that SAA add a daily Johannesburg-Dubai route with A340-600 aircraft and expand the code-share alliance with Emirates. This recommendation was based on various scenarios and tables set out, which predicted increased profits of between R123,1 and R181 million per annum from this proposal. On 14 March 2015, Mr Bosc gave a presentation to the SAA Board on the revised SAA Network and Fleet plan. In doing so, he also presented the Emirates proposal to the Board and its advantages. On 2 April 2015, the Board approved the Network and Fleet Plan, in Resolution No 2015/B15.

[53] Mr Bosc and Ms Mpshe both testified that they regarded this approval of the Network and Fleet Plan as an approval for the executive and management to pursue an enhanced code-sharing arrangement with Emirates, as recommended in the Network and Fleet Plan. One of the conditions of this approval was that an engagement be scheduled for the Board with Emirates, after a revised MOU had been distributed to the Board for review.

[54] While this resolution referred to a meeting between Emirates and the Board, Mr Bezuidenhout and Mr Bosc testified that it was Ms Myeni who personally insisted on this meeting. They testified that it was highly unusual for a non-executive chairperson to seek to be involved in operational affairs, but they nevertheless acceded to this request and begun making plans with Emirates for a meeting. Two separate meetings were scheduled, the first of these meetings was planned for 5 May 2015. Arrangements were made for Ms Myeni to travel to Dubai to meet with Sir Tim Clark, President and CEO of Emirates, and the Chairperson of Emirates, Sheikh Ahmed bin Saeed Al Maktoum, the uncle of Dubai's ruler.

[55] This meeting was timed to coincide with the Arabian Travel Market, one of the biggest events on the international aviation calendar. Mr Bezuidenhout testified that he had hoped to have concluded a non-binding MOU with Emirates at this event, as it offered an opportunity for SAA to attract substantial publicity. Despite accepting the invitation to this meeting, Ms Myeni cancelled at the last minute. Mr Bezuidenhout testified that Ms Myeni called him shortly before she was scheduled to travel to Dubai and asked him to tell Sheikh Al Maktoum that she was sick.

[56] On 4 May 2015, the day before the scheduled meeting, Ms Myeni wrote a letter to Sheikh Al Maktoum. She said that she would not be travelling to Dubai for the Travel Market due to unspecified "*unforeseen circumstances*". In her testimony, Ms Myeni failed to elaborate on her

reasons for not attending this meeting. She simply claimed that "*some commitments emerged*" and that she had "*pressing commitments*". She later claimed that she had unspecified health problems, but no further detail regarding the nature and extent of these problems were provided.

[57] Mr Bosc and Mr Bezuidenhout proceeded to the Arabian Travel Market and had a courtesy visit with the CEO and the Chairman of Emirates. In their evidence, they noted the deeply awkward and difficult position that Ms Myeni placed them in. It was apparently no simple matter for SAA to obtain a meeting with the CEO and Chairperson of the largest international airline in the world. To cancel such a meeting at the last minute was regarded as highly disrespectful, and the Arabians place immense value on respect.

[58] The second opportunity was a planned meeting on 12 May 2015 in Cape Town. The President and CEO of Emirates, Sir Clark, had personally sent an invitation to Ms Myeni to attend this meeting in Cape Town. Mr Bezuidenhout reminded Ms Myeni of this invitation and the day of the meeting. Ms Myeni again failed to attend the meeting. The other non-executive Board members also failed to attend. Mr Dixon was the only non-executive director to tender his apologies in advance, due to ill-health. The meeting proceeded as a meeting between the two airlines' executive teams.

[59] On 2 May 2015, the draft non-binding MOU was circulated to the SAA Board. This draft MOU was explicitly made non-binding. As described

by Mr Bosc, it was a "framework" to guide further negotiations, which would lead to a suite of binding agreements.

[60] Despite its non-binding nature, Mr Bezuidenhout explained that the conclusion of this MOU was a matter of profound importance for SAA. This was the necessary first step towards reaching a final agreement, which would give SAA its full package of benefits, including the annual revenue guarantee of approximately USD100 million. The MOU would also have paved the way towards allowing SAA to terminate its loss-making Abu Dhabi route and to replace this with a profitable Dubai route, securing savings of up to R3 million per day.

[61] A MOU with the world's biggest international airline would have given SAA a massive reputational boost in the global aviation industry according to Mr Bezuidenhout. Mr Bezuidenhout testified that this was particularly important to give SAA an advantage in its negotiations with big banks and financiers over the planned recapitalisation of SAA. He testified that, to take a credible financial plan to financiers, SAA needed the Emirates MOU to show concrete proof of its efforts to turn the airline around.

[62] On 27 and 28 May 2018, the Board held a special meeting to discuss the Emirates MOU. Mr Bezuidenhout circulated a presentation to guide the Board's discussion. During this Board session, an email from Mr Nick Linnell was tabled by Ms Myeni, raising legal questions about the MOU. Mr Linnell was, according to Mr Bezuidenhout, an attorney, who

was hired by Ms Myeni to advise the Board, despite SAA having had a legal advisory panel. Mr Linell raised no legal objections to the MOU. His email specifically stated that "*although the MOU is not legally binding it carries relationship and reputational risks if not pursued … without good reason.*" An internal SAA legal opinion, prepared by SAA's legal advisory panel, had already been obtained, which indicated that the MOU itself had no binding legal effect.

[63] On 28 May 2015, a further Board meeting was held to discuss the MOU. A signed extract of the Board minutes was certified by the Company Secretary, Ms Kibuuka. It was reflected in these minutes that Mr Bezuidenhout briefed the Board on further developments with the MOU. The executive was accused of delays in submitting the draft MOU to the SAA Board and a lack of transparency about the MOU. However, Mr Bezuidenhout explained that the Emirates proposal had been discussed extensively by the Board on 14 March 2015 and the revised MOU was circulated to the Board members on 2 May 2015, following further negotiations with Emirates. The minutes further recorded that Mr Dixon expressed his "*in principle support for the proposed relationship*" and he made the further observation that "*the delay was in fact on the part of the Board who received the MOU on 2 May 2015 and failed to provide comments to management.*" These minutes concluded by recording that Ms Myeni, as the Chairperson undertook to provide her decision by 9 June 2015 and no resolution was taken on the matter.

[64] As a matter of law and corporate governance, the Chairperson's approval was not required for the conclusion of the MOU. However, Mr Bezuidenhout testified that he deferred to Ms Myeni as he wished to have the Board's support on such a major deal. Mr Bezuidenhout further testified that Ms Myeni had created a climate of fear, as executives who crossed her were subjected to disciplinary proceedings and victimisation.

[65] Despite having undertaken to give a decision by 9 June 2015, Ms Myeni on 30 May 2015, emailed the Board and the executive proposing the creation of an "Operation Review Committee" to be made up of a list of middle-managers who she had appointed. Ms Myeni made it clear that she had personally come up with this idea for a committee and that its purpose was to advise her independently. Mr Meyer confirmed that Mr Bezuidenhout and the Board had not been consulted on the creation of this committee.

[66] Ms Myeni instructed that the committee's terms of reference were to be the following:

> " *Assess the proposal and advise us of SAAs Benefit on the deal in pure financial terms*
>
> *To Assess how this deal will assist SAA in growing business in South Africa and Africa.*
>
> *Risks not mentioned in the MOU or any document re Emirates and their interest in South Africa.*
>
> *History of our relationship and it's benefit then and now.*
>
> *Value proposition in relation to guaranteed revenues- risk Associated with this.*
>
> *Risk of not taking Emirates as our partner. What are we going to loose?*

Etihad - how will we deal with them when they get to know we work with Emirates

While the proposal focusses on pure business and commercial relationship, is the proposal iin (sic) *the best interest of SAA or more in Emirates terms and Favour (sic).*"

[67] Ms Myeni was clearly aware of the urgency to conclude this deal, as she claimed that this committee would somehow "*speed up the approval*". Given the urgency, Ms Myeni specifically set a timeline for the committee's report to be completed the Tuesday or Wednesday of the following week.

[68] Mr Bosc, Mr Meyer and Mr Bezuidenhout testified about the highly irregular nature of Ms Myeni's conduct in establishing this committee. They testified that it is unusual for a non-executive chairperson to constitute his or her own committee. It was even more irregular to constitute a team of middle-managers to second-guess decisions that had already been taken by the EXCO.

[69] On 3 June 2015, the Operational Review Committee produced its recommendation, which fully supported the conclusion of the Emirates MOU, accompanied by minor changes to the MOU.

[70] On 7 June 2015, Mr Bezuidenhout sent a set of consolidated submissions to the Board on the Emirates deal, attaching the Operational Review Committee's report, an updated MOU, legal reviews, and a report prepared by Deloitte. On 10 June 2015, Mr

Bezuidenhout travelled to Miami for the IATA AGM. He testified that this was another missed opportunity to conclude the Emirates MOU at a major international aviation event, but Ms Myeni had still not provided her decision despite her undertaking to do so on or before 9 June 2015. On 11 June 2015, Mr Bezuidenhout sent a further email to the Board requesting any feedback on the draft MOU. He requested the Board for a response, and to indicate whether any other concerns still exist.

[71] Mr Bezuidenhout's email also referred to a SMS from Ms Myeni, in which she requested to meet with the Operational Review Committee. Mr Bezuidenhout further testified in cross-examination that Ms Myeni refused to attend the meeting with the Operational Review Committee the following day, as she claimed that she was too busy.

[72] Mr Bezuidenhout, Mr Bosc and Mr Meyer testified that after the 11 June 2015 email there were no objections from the Board regarding the Emirates MOU. At that time, there were only four non-executive Board members, Ms Myeni, Ms Kwinana, Mr Tony Dixon and Dr John Tambi. Dr Tambi, Mr Dixon and Ms Kwinana had all indicated that they had no objections to the MOU. Mr Wolf Meyer, the CFO also supported the conclusion of the MOU. Ms Myeni who did not agree, was the only hold-out. Mr Bezuidenhout later recorded the approvals received from the other Board members in an email to the Board on 20 June 2015.

[73] Mr Dixon had formally recorded his approval in the Board minutes of 28 May 2015. Dr Tambi confirmed his approval on 9 May 2015. Ms

Kwinana confirmed her approval on 12 June 2015, during a discussion with Mr Bezuidenhout at a SAA Supplier day.

[74] Under cross-examination, Ms Myeni claimed to have no knowledge of the attitude of the other Board members. She testified that, if the other Board members had approved the deal, she would have approved too. However, when she was asked to explain what she did to contact other Board members and to canvass their views, she provided no response.

[75] SAA then had a major opportunity to conclude the non-binding MOU at the Paris Air Show on 16 June 2015. This is, according to Mr Bezuidenhout, one of the premier events in the international aviation calendar and offered SAA a valuable opportunity to publicise its deal with Emirates to the international aviation industry and the international media, Ms Myeni in an email confirmed the importance of this event.

[76] Ms Myeni further acknowledged that she knew well in advance about the plans to sign the Emirates MOU at this event. At Ms Myeni's request, Mr Bezuidenhout had even arranged an invitation for her to travel to Paris to attend the air show. However, on or about 13 or 14 June 2015, she advised that her travel plans had changed and that she could not travel to Paris.

[77] The signing ceremony for the non-binding MOU was scheduled to take place on the morning of 16 June 2015 at the Four Seasons Hotel George V in Paris. The Emirates President and CEO, Sir Clark, was to

sign on behalf of Emirates. The international media had been invited to the event, which was designed to be a showcase for both airlines.

[78] On 15 June 2015, Mr Bezuidenhout, Mr Bosc and Mr Meyer arrived in Paris ahead of the signing ceremony the next day. That afternoon, Mr Bezuidenhout and Mr Bosc met with Emirates representatives. Mr Bezuidenhout advised Emirates that Ms Myeni had still not given her express approval and that he did not want to contradict her on the matter. Emirates advised that they would escalate the matter to the "highest office" in South Africa, as they felt that SAA had not acted in good faith and had not presented any good reason for not signing the non-binding MOU. Emirates further advised that the failure to make any further progress, not only threatened the value proposition for SAA, but would force them to reconsider their existing relationship with SAA (noting that this meant R170m per year to SAA in current profits), as well as re-considering the strategic cooperation agreement signed with Emirates by the Minister of Tourism earlier during May 2015.

[79] Mr Bezuidenhout testified that during the early hours of 16 June 2015, he received a call from Ms Myeni, during which she stated that there was an instruction from President Zuma not to sign the Emirates MOU. Mr Meyer testified that he was with Mr Bezuidenhout at the time that he received the call and that Mr Bezuidenhout had placed the call on speakerphone. Mr Meyer corroborated Mr Bezuidenhout's evidence of the content of the call.

[80] On the morning of 16 June 2015, shortly before the signing ceremony, Ms Myeni again repeated the instruction not to sign the agreement. She sent a SMS to Mr Bezuidenhout's wife, again instructing Mr Bezuidenhout not to sign the non-binding MOU. In her testimony, Ms Myeni admitted sending this SMS. It stated:

> *"Morning Glynis. Hope u are all well. Another call came through 3 mins ago. We do not approve signing any Non-Binding MOU. No approval is given on any commitment on this matter. Best regards."*

[81] Mr Bezuidenhout, Mr Bosc and Mr Meyer all testified that they interpreted the reference to "we" in this SMS as a reference to Ms Myeni and the President as the other Board members had all expressed their approval for the signing of the MOU. Mr Meyer further confirmed that Ms Myeni had taken no steps to consult with him or other SAA Board members, before issuing this instruction. As a result, this could not have been an instruction from the Board.

[82] On arriving at the hotel, Mr Bezuidenhout testified that he took Sir Clark aside and advised him of the latest instruction and that he did not have Ms Myeni's consent on the execution of the MOU. Although irritated by the last minute cancellation, Sir Clark was gracious and told Mr Bezuidenhout that he felt sorry for the SAA team, whose efforts to improve SAA's situation were being hampered.

[83] In cross-examination, Mr Bezuidenhout, Mr Bosc and Mr Meyer were questioned on why they did not go ahead to sign the MOU, if no Board resolution was required to approve the MOU. Mr Bezuidenhout testified

that he was unwilling to defy a direct instruction from the chairperson, particularly given the fact that Ms Myeni had invoked the name of the President and her history of victimising executives who stood in her way. Clause 13.3.3 of the SAA MOI also requires the CEO to follow any instructions from the Board. It reads as follows:

> *"The CEO shall be responsible for the day-to-day functions of Company and shall be obliged to comply with any instructions issued by the Board and any directives issued by the Minister to the Board provided that the Board remains accountable for purposes of the PFMA, as contemplated in section 49(1) of the PFMA."*

[84] Mr Meyer further testified that Mr Bezuidenhout could not be seen to be disobeying direct instructions of the chairperson. This reluctance to disobey Ms Myeni's direct instructions was later also echoed by Ms Mpshe

[85] As a result, SAA and Emirates were forced to call off the signing ceremony. Mr Bezuidenhout, Mr Bosc and Mr Meyer all described this as one of the most embarrassing moments of their professional careers. This was also a national embarrassment that was widely reported in the media at the time. The consequence was that SAA not only failed to conclude the MOU, but it also hampered its relationship with Etihad, which was now alerted to the fact that SAA was considering a new deal with Emirates. Mr Bosc testified that this also harmed SAA's relationship with other partners, including Lufthansa. In his words, SAA was now seen as a "headless chicken" by its code-share partners. As a

consequence, SAA gained none of the benefits of the Emirates deal but suffered all the reputational harm.

[86] The South African media became aware of the failed deal with Emirates and, on 19 June 2015, a journalist from the Sunday Times contacted SAA, National Treasury and Ms Myeni seeking a response.

[87] On 20 June 2015, Mr Bezuidenhout authored an email that addressed the media leak. The email included a comprehensive chronological list of events, including Ms Myeni's instruction not to sign the MOU on 16 June 2015. Ms Myeni made no attempt to contest the facts recorded in this email, either at the time or during her testimony.

[88] On 30 June 2015, Mr Parsons (both Chief Strategy Officer, and Executive in the Chairperson's Office) sent an email indicating that Ms Myeni wanted to meet with the Operational Review Committee. On 3 July 2015, Ms Myeni held a meeting with the Operational Review Committee. Mr Bosc scribed notes on the meeting, directly after the meeting, from memory. Mr Bosc testified that Ms Myeni brought unidentified armed guards to the meeting who confiscated all attendees' mobile phones and laptops before the meeting had started. At the end of the meeting, Ms Myeni instructed her guards to confiscate all the written notes taken by attendees, except those of the Company Secretary.

[89] Mr Bosc testified that Ms Myeni spoke at length at this meeting, stating many facts that were untrue. When Mr Bosc tried to interject, Ms Myeni told him to keep quiet or to leave. Mr Bosc testified that he then kept silent for the duration of the meeting. Mr Bosc recorded that Ms Myeni raised the following objections, which he responded to in detail in his notes:

- *"SAA does not have an African Strategy"*
- *"SAA never engaged with DOT on the matter (Emirates), and the Minister was concerned"*
- *"The MOU was received by SAA's Management in January 2015, but was hidden away from the Board until recently (at that time, which was 3 July 2015"*
- *"Equity talks were sneaked into the MOU"*
- *"SAA hired a consultant to work on the matter"*
- *"The Chair was summoned to meet with an Emirates Chairperson, but did not understand why"*

[90] An action list was formulated from the 3 July 2015 meeting, with tasks assigned to different SAA officials and Board members. Mr Bosc testified that Ms Myeni had insisted that three further steps be followed. They were that the SAA Emirates Review Team should organize a meeting with Emirates after the meeting with the Board and DOT, the Emirates Team should also meet with the Board and it should also be arranged that the Chairperson of the SAA Board meet with the Chairperson of Emirates.

[91] Mr Bosc testified that these action items were nonsensical. It would be an embarrassment for the Operational Review Committee, as a group of

middle-managers, to now meet with Emirates following months of negotiations and the history of the matter up to that point. The requirement that the Chairperson should meet with the Chairperson of Emirates also made little sense, particularly as Ms Myeni had previously failed to attend meetings with him. Mr Bosc testified that he made his objections known.

[92] On 6 July 2015, Mr Bezuidenhout attempted to circulate a round-robin resolution to the Board seeking approval for the signing of the MOU. This round-robin was accompanied by a detailed set of submissions, setting out the history of the negotiations, the merits of the proposal, and responses to concerns that had been raised. He also attached the latest version of the MOU.

[93] On that same day, Ms Myeni stopped the attempt to circulate the round-robin and the submissions to the Board. In her email, she stated that she never requested or instructed Mr Bezuidenhout to send a round-robin for Board approval, and insisted that the steps be taken as per the action list.

[94] The reference to the action list was the list of items emanating from the 3 July 2015 meeting, described above, which insisted on various meetings being held, before any further action could be taken on the MOU. Having stopped the round-robin resolution, the submissions were then included in the Board packs for the Board's next meeting on 10 July 2015.

[95] On 7 July 2015, Mr Bosc emailed the action list to Mr Bezuidenhout, indicating that he had tried to answer the tasks assigned to him as best as he could, but that most were pointless. These action items were simply a repeat of work that had already been done. He also informed Mr Bezuidenhout per email of Ms Myeni's behaviour at the meeting on 3 July 2015.

[96] The minutes of 10 July 2015 under Item 4.4 recorded that:

> "*The Board confirmed that it was satisfied with the draft non-binding Emirates Memorandum of Understanding (MOU) and concluded that the next process as outlined In the action list from the meeting held on Friday 03 July 2015 with the Emirates Operational Review Team should be followed.*"

[97] No resolution was taken on this matter. The action list of 3 July 2015 was attached to the minutes. The minutes repeated that the Operational Review Committee was to meet with Emirates, the DOT and the Board. It required that a further meeting be arranged between Ms Myeni and the Chairperson of Emirates. Far from being a greenlight to conclude the MOU, as Ms Myeni during evidence claimed, it merely placed further hurdles in the way of concluding the MOU. At no time did Ms Myeni ever revoke her instruction to Mr Bezuidenhout not to sign the MOU, nor did she tell the SAA executives that they were free to sign.

[98] On 13 July 2015, Mr Soga emailed Mr Bezuidenhout, indicating that his 6 July 2015 submission to the Board had been included in the Board pack, but had not been considered at the Board meeting of 10 July 2015. He then requested that Mr Bezuidenhout approve the

submissions so that they could be circulated again to the Board for approval on a round-robin basis.

[99] This email was sent to Mr Bezuidenhout at the end of his tenure, shortly before he went back to Mango. As a result, his submissions to the Board were not circulated. Mr Bosc followed this up in an email dated 5 August 2015 to the then Acting CEO, Ms Thuli Mpshe, in which he inter alia stated that the Board did not consider the submissions.

[100] Mr Meyer testified that, to his knowledge, the 6 July 2015 submissions were not circulated to the Board at any time after the 10 July 2015 meeting. He further confirmed that it was the duty of Ms Myeni, as chairperson to ensure that uncompleted items were carried forward to the next Board meeting but, to his knowledge, this was never done.

[101] On 21 July 2015, Mr Bosc attended the weekly meeting between SAA management and National Treasury officials. On 27 July 2015, he sent an email to the participants of those weekly meetings, in which he again raised the problem of the Board stalling the MOU. On 7 August 2015, Mr Bosc attended a further meeting with DOT to discuss the Emirates MOU. He took minutes of the meeting. Both Mr Bosc and Ms Mpshe testified that Ms Myeni frequently stated that DOT would be against the Emirates partnership which was not true. This meeting was organized to clear up those issues.

[102] Following this meeting, on 8 August 2015, the Minister of Transport on behalf of DOT wrote to Ms Myeni expressing support for the MOU. The Minister stated the following:

> *"With regard to Emirates, Department of Transport has no objections to SAA discussing and / or signing any Memorandum of Cooperation (MOC), which has to do with the national carrier's Turn Around Strategy and intent for Africa. However, the Department regards these matters as operational and commercial for the airline's Management and Board.*
>
> *It is my considered view that this MOU contains a lot of positive and beneficial elements that seek to increase your revenue base and widens the SAA market. I trust the Management and Board has applied due diligence and would advise you to proceed and conclude the deal with Emirates"*

[103] On 17 August 2015, Mr Bosc sent an email to colleagues at SAA to update them on progress. He referred to the positive meeting with DOT and indicated that the Minister of Transport would be meeting with the Minister of Finance to discuss these matters. He had been told by DOT representatives that a communication from the Minister of Transport to Ms Myeni would be coming, but was not sure if a letter had already been sent at the time. He therefore specifically asked the Acting CEO, Ms Mpshe, to check with the company secretary whether there had been any official communication from the DOT or National Treasury on the Emirates deal.

[104] On 27 August 2015, Mr Bosc sent a follow-up email to Ms Mpshe to find out if there had been any further communication from Ms Myeni about the Emirates MOU. On 30 August 2015, Mr Bosc received a letter from Mr Orhan Abbas of Emirates on an official letterhead. Mr Bosc testified

that he was surprised to receive this official correspondence, as he had previously been corresponding with Mr Abbas informally. This was a signal of Emirates's strong disapproval. Mr Abbas stated that he was writing to convey his grave concern about the deterioration in the Emirates-SAA commercial partnership. Mr Abbas cited three causes for this deterioration. They were the continued delay in concluding the MOU, the perception that SAA was not assisting in resolving the litigation between Emirates and DOT, over the Emirates traffic rights to operate the fourth frequency and the fact that SAA had concluded a binding deal with Jet Airways to direct traffic through Abu Dhabi. Jet Airways was partly owned by Etihad. Mr Abbas concluded by placing SAA on terms that if the issues could not be resolved, this would jeopardise the existing profitable relationship between SAA and Emirates.

[105] Mr Bosc testified that, following this letter, he had conversations with Emirates's representatives, Mr Abbas and Mr Farooqui. From these conversations it was clear to him that the damage to SAA's relationship with Emirates was far more severe than he had anticipated.

[106] On 1 September 2015, Mr Bosc wrote to SAA colleagues, including Ms Thuli Mpshe and Mr Wolf Meyer, to relay his conversations with Emirates. He told his colleagues that at that time he believed there was a 50% chance that Emirates would walk away from both the MOU and from the existing code-sharing relationship. He further explained that from his discussions with National Treasury, there was pressure on SAA

to terminate its loss-making relationship with Etihad. This would mean that SAA would be without a key link to Asia, in the absence of an enhanced code-share with Emirates. He suggested that as a show of good faith, SAA should write to DOT indicating that SAA would support bringing an end to litigation against Emirates. Ms Mpshe subsequently wrote to DOT on 9 September 2015 proposing that the litigation with Emirates come to an end to facilitate the negotiation and finalisation of the MOU.

[107] In the meantime, the relationship with Emirates continued to deteriorate. Mr Bosc and Ms Mpshe testified that Ms Myeni had repeatedly told the executive team that the Minister of Finance and the Minister of Transport had some undisclosed concerns about the Emirates deal, which had to be resolved, before any MOU could be concluded. Mr Bosc confirmed that his team had relayed Ms Myeni's concerns to Emirates to explain the delays in concluding the MOU.

[108] On 30 August 2015, Mr Abbas of Emirates wrote separately to National Treasury about the MOU. On 2 September 2015, the Minister of Finance responded to Emirates. The Minister informed Emirates that the MOU was an operational matter, that he had not been consulted on the MOU by the SAA Board, and that National Treasury would not get involved.

[109] This response contradicted what Emirates had been told by Ms Myeni about the reasons for the further delay. The Minister of Finance clearly

indicated that National Treasury had no intention of interfering in these matters, contrary to Ms Myeni's claim that Treasury's sign-off was required.

[110] On 3 September 2015, Mr Bosc again wrote to Ms Mpshe, Mr Meyer and Mr Soga to update them on these issues. Mr Bosc highlighted that Treasury's response showed that there was no basis whatsoever for Ms Myeni's claim that ministerial approval was required for the MOU and that this was now exposed as a stalling tactic. Mr Bosc concluded by asking Ms Mpshe and Mr Meyer for guidance on the way forward, as it was clear that Ms Myeni was intent on stalling.

[111] On 8 September 2015, Mr Abbas sent a letter to Ms Mpshe, copying Mr Bosc and the SAA Board. This letter made reference to the Minister of Finance's letter of 2 September 2015 and expressed surprise at Treasury's response. He stated that it was disturbing that the Minister stated that he had never been consulted by the Board on the matter, which was at odds with what he was told by the SAA Board and he also referred to the fact that DOT had withdrawn their appeal in the litigation about the fourth frequency. Mr Abbas expressed his frustration that it had taken eight months to conclude the MOU.

[112] In the ensuing months, no further action was taken by the Board on the Emirates deal. The entire SAA team that had been responsible for engaging with Emirates was removed or resigned. Mr Bezuidenhout had left SAA at the end of July 2015. He returned to Mango following an

acrimonious exchange with Ms Myeni, he testified, she accused him of using an e-cigarette to record a meeting and used bogus whistle-blower reports to threaten him. Mr Bezuidenhout was later cleared of any wrongdoing.

[113] Mr Bosc was placed on special leave during early October 2015, pending an investigation into various allegations against him. He, too, was later cleared of all charges at a subsequent disciplinary hearing. Ms Thuli Mphse was relieved of her duties as Acting CEO during November 2015 and was suspended in early 2016. She too was never found guilty of any misconduct. Mr Barry Parsons resigned due to Ms Myeni's conduct at the end of September 2015.

[114] In his evidence, Mr Bosc underlined the fact that commercial negotiations involve relationships and trust. Following his removal, there was no point of contact for Emirates at SAA and, to his knowledge, no further negotiations took place. The Emirates proposal and the MOU were simply allowed to die away. In the process, SAA lost out on a significant opportunity to advance its commercial relationship with the largest airline in the world.

[115] Ms Myeni version on the Emirates deal was confusing. During cross-examination the version put on her behalf changed, in instances contradicted her pleadings and sometimes even contradicted her evidence which was led later on. Very little of the evidence led by the witnesses of the plaintiffs was disputed or contradicted. The most

concerning aspect was the failure to put a comprehensive version of Ms Myeni's evidence to the witnesses. Counsel's attention was repeatedly drawn to the inherent danger of not doing so by the court.

[116] During the cross-examination of Mr Bezuidenhout, Mr Bosc and Ms Mpshe, Ms Myeni's counsel was vociferous in putting the version that the Emirates MOU was a "sham" and was "unlawful", as it was allegedly an impermissible attempt to secure Emirates a fourth frequency to Johannesburg. It was further claimed that the MOU contained no material benefits for SAA. As a result, Ms Myeni's counsel claimed that the Board had legitimately opposed the MOU because of these concerns. The evidence of Mr Bezuidenhout and Mr Bosc contradicted these allegations. Why this seemingly profitable transaction was a sham and unlawful remained devoid of any substance or facts to support it.

[117] In her evidence, Ms Myeni's testimony contradicted the version put by her counsel. She then claimed that on 10 July 2015, the Board fully approved the Emirates MOU, giving the executives the greenlight to conclude the deal. She claimed to have no knowledge why the deal was not signed after that date. Ms Myeni stated that she instructed Mr Bezuidenhout not to sign the MOU on 16 June 2015, simply because the Board had not yet had an opportunity to study the Operational Review Committee's recommendations and did not want to be "rushed". On this version, she had no substantive objections to the MOU. Her version was that she had never told Mr Bezuidenhout not to sign because of the President's instructions. Instead, she claimed that she

was speaking on behalf of the Board, when she phoned him on 16 June 2015. This version is clearly untrue, as the evidence revealed that all the other Board members supported the conclusion of the MOU.

[118] Ms Myeni's version, put under cross-examination to the witnesses of the plaintiffs, namely that the Emirates deal was a sham and unlawful was in stark contrast with her evidence that she approved it on 10 July 2015. Her own evidence constituted two mutually destructive versions. She never produced any concrete evidence that the deal was unlawful, she did however complain that Mr Bezuidenhout was rushing the deal as he wanted to "*shine at the Paris air show*". In the light of the time line and the numerous delays that occurred, it is abundantly clear that Ms Myeni and the Board had ample time to consider the deal, but for reasons that remain unclear to this day, frustrated and sabotaged the deal.

[119] Ms Myeni complained that she was not afforded due respect by Mr Bezuidenhout, Mr Bosc and Mr Meyer and alleged that it was because she is a black woman. No allegation of gender or race bias was put to any of the plaintiffs' witnesses, including Ms Mpshe who was in much the same position as Ms Myeni, being a black woman in an executive position. There is no arguing that racial and gender bias are serious allegations, and if it did exist should have been properly raised with the alleged perpetrators, surprisingly this was not done. As a result this belated complaint will not be entertained by this Court. In any event no such bias could be found on a thorough evaluation of the evidence and the correspondence, it would also seem that Mr Bezuidenhout and Mr

Bosc made every effort to respect Ms Myeni's wishes and instructions. It was because they gave due respect to her and her position that this lucrative deal for SAA was never signed.

[120] In order to determine whether the conduct of Ms Myeni constitutes that of a delinquent director the Court *inter alia* need to establish whether there was any valid reason for her not to sign the Emirates deal. On a charitable construction of her version, Ms Myeni's justification for not giving instructions for the signing of the MOU appeared, to be that a formal resolution of the Board was required to approve the signing of the non-binding MOU with Emirates. According to Ms Myeni the Board and herself were concerned that the MOU would unlawfully grant Emirates a fourth daily frequency. It is incomprehensible that Ms Myeni was unaware of the fact that it was DOT and not SAA, who granted frequencies and that the fourth frequency was granted by DOT.

[121] Ms Myeni went back and forth on the question of whether a formal Board resolution was indeed required for the conclusion of the non-binding MOU. Under cross-examination Ms Myeni first insisted that a resolution was required, her counsel interjected to say that this was not her version, after which Ms Myeni claimed that Board approval was required, but not a formal resolution. Ms Myeni finally settled on the version that a resolution was needed. Ms Myeni's confusion on such an essential question was indicative of a gross lack of care and placed her credibility as a witness in question.

[122] No Board resolution was in fact required for the signing of a non-binding MOU with Emirates. The MOU merely paved the way to further negotiations. A formal Board resolution and other approvals would only have been needed after the negotiations, at the point where SAA and Emirates were seeking to conclude legally binding agreements.

[123] Mr Bezuidenhout testified that Ms Myeni had never raised the issue of the fourth frequency with him personally. He testified that the two primary concerns that Ms Myeni relayed to him were, the mistaken belief that Emirates sought to buy SAA, and the belief that Emirates was somehow involved in the illegal trade of South African wildlife.

[124] Her email of 2 May 2015 reflected the essence of Ms Myeni's concern. She was concerned about flights to other destinations, beyond OR Tambo. At no point in this email did Ms Myeni express any concern about Emirates' fourth frequency flight to Johannesburg. Instead, her concerns related to the mistaken belief that SAA was somehow giving Emirates new rights to fly domestic routes within South Africa, instead of getting into OR Tambo. Not only did this email conflict with Ms Myeni's alleged concern over the fourth frequency, but it also reflected her lack of understanding of how frequencies work. Emirates already had eight existing frequencies, allowing it to operate international flights between Dubai and three international airports in South Africa, namely, Johannesburg, Cape Town, and Durban. The MOU did not change this. Emirates never had permission to operate domestic routes between

airports in South Africa, nor did the MOU suggest that it would be given domestic routes.

[125] It would seem that Ms Myeni's obstruction of the MOU was, if this is accepted, based on an ignorance of how flight frequencies worked. Her failure to acquaint herself with this issue demonstrated a reckless lack of care.

[126] Mr Stein's expert evidence confirmed that it is the chairperson's duty to provide leadership to the Board and to convene Board and urgent Board meetings when necessary. This is reinforced by clause 12.2.3 of the SAA Shareholder's Compact, which states that the Board "*recognises the importance of speedy decision-making, and will use its best endeavours to prevent undue delays with regard to critical decisions*" Despite this Ms Myeni took no steps to expedite the matter.

[127] The question of whether Ms Myeni was indeed instructed by the then president, Mr Zuma not to allow the signing of the MOU is not determinative of the question of her alleged delinquency. Mr Bezuidenhout and Mr Meyer testified that, that was what she said, whether this instruction emanated from Mr Zuma, we will never know. What we do however know is that it was common cause that Ms Myeni gave a direct instruction not to proceed with the signing of the MOU on 16 June 2915 to the great embarrassment of not only Merss Bezuidenhout, Meyer and Bosc, but ultimately to the detriment of SAA and the whole country.

[128] Ms Myeni had no valid reason to block the signing of the Emirates MOU. She was not acting on behalf of the Board in issuing such an instruction, and she clearly was engaging in a frolic of her own. Whether or not Ms Myeni in fact invoked President Zuma's name could merely be of aggravation, which will not change the conclusion that there was serious misconduct on her part.

[129] Mr Bezuidenhout's testimony was undeniably credible and reliable. His testimony on the events of 16 June 2015 was corroborated by Mr Meyer, who was present with him at the time of the call and listened in when Mr Bezuidenhout placed the call on speakerphone. By contrast, Ms Myeni proved to be an unreliable and evasive witness.

[130] It was only during the course of her examination-in-chief that Ms Myeni for the first time alleged that the events of 16 June 2015 were not significant, as there was still an opportunity to conclude the Emirates MOU after 16 June, Ms Myeni testified that the Board approved the MOU on 10 July 2015, and she testified that she could not understand why the executive did not conclude the MOU after that date. This evidence stands in stark contradiction with her pleadings, the version that was put on her behalf and the evidence of the other witnesses. While the events of 16 June 2015 did not bring a complete end to negotiations with Emirates, the damage to SAA was clearly incalculable. Ms Myeni did not provide this Court with a consistent credible version.

[131] The only witness who was given the opportunity to respond to Ms Myeni's new version on the 10 July 2015 meeting was Mr Meyer. He denied Ms Myeni's claims that these minutes reflected Ms Myeni's approval. He confirmed that at no point did Ms Myeni expressly revoke her instruction not to sign the MOU, nor did she ever express her support for the transaction.

[132] In summary, Ms Myeni did not have any reasonable grounds to block the signing of the Emirates MOU on 16 June 2015 or thereafter. This led to the inevitable conclusion that Ms Myeni breached her fiduciary duty to act in good faith, for a proper purpose, and in the best interests of SAA. The Emirates deal was never concluded, as a result of Ms Myeni's actions. This led to irreparable harm for SAA and the country. What motivated these reckless and detrimental actions to SAA and country, we still do not know. Ms Myeni acted recklessly and broke her fiduciary duty in sabotaging this deal and the people of South Africa and SAA's employees are paying the price for her actions.

[133] The evidence was that to this day Emirates retains its four daily frequencies to Johannesburg, yet SAA has obtained none of the benefits that were envisaged had it concluded an enhanced code-sharing arrangement with Emirates.

THE AIRBUS SWAP TRANSACTION

[134] The second cause of action with which the plaintiffs proceeded concerned Ms Myeni's alleged efforts to obstruct the conclusion of the Swap Transaction during 2015. This was an agreement between SAA and Airbus in 2015 to cancel a legacy contract for the purchase of 10 Airbus A320-200s and to substitute this with a new deal for SAA to lease five Airbus A330-300 aircraft directly from Airbus.

[135] This swap was necessary to allow SAA to escape onerous pre-delivery payments (PDP's) and inflated prices under the old contract. Time was of the essence, as the PDP's were nearly due. SAA was liable to pay over a R 1 billion to Airbus in 2015, money which it did not have. If SAA defaulted on any PDP's, it faced the risk of triggering cross-default clauses on other loans and leases, with the effect that billions of Rand in debt would fall due immediately. This would have had a significant knock-on effect on other government debts.

[136] The history of SAA's dealings with Airbus are common cause on the pleadings. In 2002, prior to Ms Myeni's tenure as a board member, SAA entered into a purchase agreement with Airbus for fifteen A320-200 aircraft (the 2002 Agreement). In 2009, SAA approached Airbus to revise the 2002 Agreement. This led to the 2009 Revised Agreement, which included *inter alia* the following terms, namely that SAA would increase its order from fifteen to twenty aircraft and in exchange, Airbus would agree to postpone the payment of PDP's to Airbus.

[137] During 2013, SAA did a deal to acquire the first ten A320 aircraft through a novation of the 2009 Revised Agreement and a sale-and - leaseback transaction with Pembroke Aircraft Leasing ("Pembroke"), the aircraft financing arm of Standard Chartered Bank. This was referred to as the "Pembroke deal". SAA still had to pay for the remaining ten aircraft under the 2009 Revised Agreement, which were scheduled for delivery from Quarter two of 2015 until Quarter four of 2017. PDP's were becoming due in 2015 and SAA was facing a substantial liability. As part of the 90-day Action Plan, the then Acting CEO, Mr Bezuidenhout, tasked the CFO, Mr Meyer, and the Commercial General Manager, Mr Bosc, with renegotiating the Airbus contract.

[138] These negotiations were driven by two imperatives. SAA was in a dire financial position. It was cash-strapped and did not have the money to pay the remaining PDP's and final delivery payments on the remaining ten A320 aircraft, which amounted to billions of Rand. The original contract locked SAA into a purchase price for the A320 aircraft, which now was far in excess of the market value of the aircraft. This would mean that SAA would have to write off over USD 10 million on the delivery of each aircraft, which would have resulted in a substantial impairment of SAA's balance sheet.

[139] Mr Meyer and Mr Bosc testified that they spent months working on the deal, supported by their team at SAA. In late 2014, they travelled to Toulouse, France where they spent a week negotiating better terms for SAA. The outcome of these negotiations was the proposed Swap

Transaction. In terms of this deal, SAA and Airbus would agree to cancel the purchase of the remaining ten Airbus A320-200s and to substitute this with a new deal for SAA to lease five Airbus A330-300 aircraft directly from Airbus.

[140] This deal would have significant benefits for SAA, as was captured in Mr Meyer's submissions to the Board on 27 March 2015. The Swap Transaction would allow SAA to escape the onerous contract with Airbus and the outstanding PDP's. In addition, SAA would have received refunds on the PDP's that it had already paid under the deal. This was estimated to have a positive cash flow impact of USD 106 million over three years, over and above the cost of outstanding PDP's that would be avoided. The Swap Transaction would also allow SAA to avoid impairing its balance sheet by a further USD 106 million as a result of the price escalations on the A320's. The added benefit was that this deal would give SAA access to more fuel-efficient wide body aircraft in the form of A330-300's, which were needed to replace the inefficient and expensive A340-600 aircraft. This was consistent with SAA's Network and Fleet Plan, which had specifically recommended this replacement.

[141] In her plea, Ms Myeni admitted that the Swap Transaction would indeed have significant benefits as it would, *inter alia*, alleviate SAA's liquidity problems associated with the 2009 Revised Agreement and would have allowed SAA to procure A330-300 aircraft. On 31 March 2015, the SAA Board unanimously resolved to approve the Swap Transaction. A

condition of the conclusion of the Swap Transaction was that SAA would obtain the necessary governance approvals, which included an approval from the Minister of Finance, in terms of section 54(2) of the PFMA and SAA's Significance and Materiality Framework.

[142] On 30 July 2015, the Minister of Finance conditionally approved the Swap Transaction in terms of section 54(2) of the PFMA, subject to receiving additional information on the deal. On 30 July 2015, the Acting Chief Executive Officer and the Chief Financial Officer of SAA had already signed the execution documents in terms of SAA's Delegation of Authority Framework, 2012. On 11 September 2015, the Minister of Finance unconditionally approved the Swap Transaction in terms of section 54(2) of the PFMA. His letter confirmed that the outstanding information had now been provided to the Treasury team.

[143] After the Minister's unconditional approval, the only outstanding task remaining was for the SAA Board to ratify the signatories to the execution documents. Mr Meyer testified that this ought to have been a mere formality, which should have taken no time at all.

[144] The swift conclusion of the Swap Transaction was not only necessary to rescue SAA's financial position, but it also became a key condition for SAA to receive any further going concern guarantees from the government. During December 2014, at the time that the Minister of Finance took over as the executive authority responsible for SAA, SAA's financial position was extremely weak. Ms Halstead testified that SAA

had been technically insolvent since at least 2012/2013. This situation meant that SAA was reliant on government guarantees to remain afloat. Ms Halstead testified that a guarantee is an undertaking that, if SAA were to default on its debts then the government would be liable to pay its creditors. Without these guarantees, SAA would not have been able to sign off on its financial statements as a going concern and would face liquidation. These guarantees were also necessary to give comfort to its lenders. In the absence thereof, no lender would have been willing to assist SAA. During August 2015, SAA had submitted an application for a R5 billion increase in their government guarantee facility. Ms Halstead and Mr Meyer confirmed that the requested amount was premised on SAA concluding the A320/A330 Swap Transaction.

[145] On 14 September 2015, Minister Nene wrote to Ms Myeni in response to SAA's application for the government guarantee. The Minister refused to consider the application, until seven key actions were taken, which included the conclusion of the Swap Transaction. He set a deadline for 18 September 2015 for this matter to be concluded. He stated that SAA had to finalise certain outstanding issues, which included the Swap Transaction. He pointed out that the delay was resulting in the annual financial statements not being signed off. He aslo required finalization of the outstanding matters by 18 September 2015.

[146] Ms Halstead testified that the 18 September 2015 deadline was set based on the deadlines prescribed under the PFMA, for the finalisation and tabling of financial statements and annual reports. In terms of

section 65(2) of the PFMA, the Minister was required to table SAA's financial statements in Parliament by 30 September 2015. This could not be done if they had not been finalised and the going concern guarantee was a prerequisite for their finalisation. Section 55(1)(d) of the PFMA requires that SAA ought already to have completed its financial statements by 31 August 2015. She testified that the delay was negatively impacting the confidence of lenders. It also meant that the AGM could not be held.

[147] Ms Myeni failed to meet this 18 September 2015 deadline and there was still no ratification of the deal. By September 2015 the Board consisted of five members: Ms Myeni, Ms Kwinana, Dr Tambi, Mr Dixon and Mr Meyer. The Acting CEO at the time, Ms Mpshe, ought to have been regarded as a Board member in terms of the MOI, but Ms Myeni took the view that she was not a proper Board member and she was apparently excluded from Board decisions.

[148] Despite approving the Swap Transaction on 31 March 2015 and supporting the section 54 application to the Minister, Ms Myeni, Ms Kwinana and Dr Tambi now began questioning the transaction. On 7 September 2015, shortly before confirmation of the Minister's unconditional approval, Ms Myeni had sent an email to Mr Meyer and the other Board members setting out queries about the Swap Transaction. Mr Meyer replied on 13 September 2015, providing detailed responses. As reflected in Mr Meyer's correspondence, he expressed his confusion as to why Ms Myeni was raising these issues at

this point, after she had already approved the transaction on 31 March 2015 and signed off on the section 54 application to the Minister. The conclusion of the deal was now urgent and merely required a round-robin to ratify the signatories. On 16 September 2015, Mr Meyer sent a follow-up email to the Board emphasizing the urgency of concluding the Swap Transaction and explaining the risks of further delays.

[149] Rather than simply ratifying the signatories, Ms Myeni, Ms Kwinana and Dr Tambi then started engaging directly with Airbus representatives in an attempt to renegotiate the deal. All of the witnesses, including the expert, Mr Stein, noted that it was highly irregular for non-executive directors to attempt to meet directly with suppliers.

[150] On 24 September 2015, Ms Kwinana and Dr Tambi met with Mr Hadi Akoum, the Airbus Vice President of Sales in Africa, in Johannesburg. Mr Meyer testified that neither he, nor Mr Dixon were made aware of this meeting. On 25 September 2015, Mr Akoum sent an email directly to Ms Myeni following this meeting, addressing her on first-name terms Mr Akoum indicated that it was urgent that SAA conclude the Swap Transaction as Airbus had production deadlines. Mr Akoum further warned Ms Myeni that if SAA reverted to the 320 deal all PDP's would be payable and the aircraft would be delivered in the near future.

[151] On 25 September 2015, Mr Dixon responded expressing his concern that the other Board members had met directly with Airbus, without his knowledge. Mr Dixon also emphasized that, in his view, Board approval

had already been granted for the Swap Transaction and that there was no reason for further delays. On Sunday 27 September 2015, Mr Meyer emailed Ms Myeni and the other Board members again, following further discussions with Mr Akoum. Mr Meyer relayed a text message he had received from Mr Akoum, which stated: "*"Hi Wolf, no feedback from Dudu or board members. We will send a default notice next week for the outstanding A320 POP's. Sorry, regards Hadi."*

[152] Mr Meyer reminded the Board that the delay would have horrendous implications for SAA and also result in SAA failing to meet its targets and undertakings in the 90-Day Action Plan, the Corporate Plan and the Shareholder's Compact. Despite Mr Meyer's warnings and the Minister's instruction to conclude the Swap Transaction by 18 September 2015, there was still no ratification.

[153] When asked in cross-examination why there was a delay, Ms Myeni failed to offer any plausible explaining. She initially suggested that she wanted to ratify, but was held back by other Board members. When pressed further, she then suggested that there were unspecified concerns over the Swap Transaction and that the Board wanted to explore all options. She failed to give any clear answer on where she stood on the transaction and why she took no proactive steps to expedite matters. Mr Meyer testified that far from being neutral, it was Ms Myeni who took the lead in blocking the finalisation and attempted to renegotiate the deal with Airbus. This was evident from Ms Myeni's correspondence directly with Airbus.

[154] On 29 September 2015, Ms Myeni sent a letter to the President and CEO of Airbus, Mr Fabrice Bregier, seeking unilaterally to change the agreed Swap Transaction. Ms Myeni stated that:

> *"On behalf of the Board of South African Airways, I would like to apologise for the delay in reaching a decision on the A320 / A330 swap transaction. You will appreciate that this is a complex transaction and the full Board had to be satisfied that the approved deal is in the best interests of the company and the government of the Republic of South Africa at this point of time.*
>
> *I am pleased to inform you that SAA has decided to do this transaction slightly differently, by engaging an African Aircraft Leasing Company to engage directly with you. As there has been a delay in reaching this decision, SAA is agreeable to extending the delivery dates by a month or two. This company will then work directly with SAA going forward,*
>
> *I trust you will find the above in order."*

[155] Ms Myeni claimed in evidence that her letter of 29 September 2015 was prepared by the Company Secretary, Ms Kibuuka, in an apparent attempt to shift the blame for any misrepresentations. However, when pressed, Ms Myeni stated that she approved of the contents of the letter. Ms Myeni further testified that she checked all draft correspondence carefully before signing and that by signing this letter she indicated her approval of its contents. Therefore, there is no basis for Ms Myeni to attempt to disavow this letter.

[156] Mr Bosc, Mr Meyer and Ms Mpshe testified that this letter took them by complete surprise. Ms Myeni had made no attempt to consult with them, other Board members, or members of EXCO before sending it. They were adamant that there was no Board resolution to change the

nature of the transaction and the chairperson did not have the authority to change such a deal without approval. There was also no "African Aircraft Leasing Company" in place to engage with Airbus. Moreover, Airbus's tight production schedules did not permit SAA to dictate delivery periods, as Ms Myeni attempted to do.

[157] All of the plaintiffs' witnesses were unanimous that it is unheard of for a non-executive chairperson to take the step of writing directly to the head of a major supplier to attempt to renegotiate a deal that was already approved. Mr Bosc emphasised that the negotiation process up to that point had taken more than nine months of planning and negotiation involving people at SAA, Treasury and Airbus, many of whom were specialists. He stressed that the acquisition of aircraft is a highly complex and specialised task.

[158] Not only did Ms Myeni seek to change the nature of the transaction, but she also went directly to the president and CEO of Airbus, who had not previously been involved in the negotiations. It was common cause on the pleadings that at the time that Ms Myeni sent this letter, that the SAA Board had not decided to amend the terms of the Swap Transaction, nor had the Minister approved this amendment of the Swap Transaction.

[159] On 5 October 2015, Mr Bregier sent a letter to Ms Myeni expressing his surprise at her letter of 29 September 2015. Mr Bregier indicated that, in Airbus's view, the transaction was already on the verge of completion following the signing of the transaction documentation on 31 July 2015

and the fact that both the SAA Board and the Minister had already approved the transaction. Mr Bregier further indicated that Airbus would not permit the introduction of an "African Aircraft Leasing Company" at this stage, as Airbus had strict procurement requirements. A leasing company could only be introduced, after Airbus had concluded a full request for proposals ("RFP") process. Mr Bregier concluded with the thinly veiled threat that any further delays would result in Airbus taking steps to "*preserve its rights*" – which was a reference to its rights to demand payment of the PDP's in terms of the 2009 Revised Agreement.

[160] As a result, Airbus had made its position clear. It was not willing to consider the insertion of an African Aircraft Leasing Company as a precondition for the conclusion of the Swap Transaction. It was, however, open to the inclusion of such a company in a future RFP process that was envisaged, after the Swap Transaction was concluded. In the meantime, any further delays in concluding the Swap Transaction would mean that SAA would be held liable for the outstanding PDP's under the existing agreement, amounting to almost USD40 million by the end of November 2015.

[161] Rather than heeding Airbus's warnings, Ms Myeni, aided by Ms Kwinana and Dr Tambi, then sought to use these warnings as a pretext to push through the appointment of a transaction advisor. On 5 October 2015, Ms Myeni received Mr Bregier's letter via email. Ms Myeni then

circulated this letter to Ms Kwinana and Dr Tambi, excluding Mr Dixon and Mr Meyer.

[162] On 28 and 29 September 2015, around the time that Ms Myeni sent the letter to Airbus, a meeting was held at the InterContinental Hotel at OR Tambo, involving SAA management and some members of the Board. Ms Myeni sought to characterise this as a Board meeting, but all of the plaintiffs' witnesses insisted that it was nothing of the sort. Mr Bosc testified that members of senior executives of SAA had initially been summoned to this meeting by Ms Myeni. At the last minute, the venue was changed from the SAA headquarters to the InterContinental Hotel.

[163] Mr Bosc, Ms Mpshe and Mr Meyer attended this meeting. They described it as a two-day monologue, during which Ms Myeni spoke at great length, reflecting her personal views on a range of topics. No agenda had been circulated in advance, as Ms Myeni had rejected the one proposed by the executive. There were no meeting packs, no submissions, no votes, and no resolutions passed.

[164] On 3 November 2015, Ms Mabana Makhakhe, the deputy company secretary, emailed a copy of the draft minutes of this meeting to Board members seeking their approval. Mr Meyer, Mr Bosc and Ms Mpshe all confirmed that these draft minutes were not an accurate reflection of the meeting and that, to the best of their knowledge, these minutes were never approved. In response to these minutes Mr Bosc immediately

emailed Mr Viwe Soga, Head of the Legal Department at SAA, to ask that draft minutes be corrected as they were wrong.

[165] Both Ms Mpshe and Mr Meyer testified that they fully concurred with Mr Bosc's objections to the draft minutes and adopted his views as their own. Mr Bosc, Ms Mpshe and Mr Meyer further confirmed in their testimony that the portions of these draft minutes that dealt with the Swap Transaction are false. These draft minutes stated that "*It was agreed that the response to the Minister should state that the structure of the A320 transaction was being reviewed by the Board and it was observed that the local aircraft leasing company was a better option for SAA.*" They confirmed that the Board did not reach any such agreement, nor was there a resolution to this effect. Instead, it was Ms Myeni who raised the issue of a local aircraft leasing company, but declined to give any further details as she feared that information may be leaked to the media. Under the heading "Local Aircraft Leasing Company" the minutes stated that:

> *"The Board requested Management to direct Members to individuals or Institutions which could unlock opportunities for SAA. In particular it was stated that there was a need to. access the Department of Trade and Industry (DTI) National Industrial Participation Programme (NIPPs) funding for the local aircraft leasing company. It was stated that the idea was to request DTI through one of its entities to hold a majority stake in the aircraft leasing company together with the Public Investment Corporation (PIC) and the Development Bank of Southern Africa (DBSA)."*

[166] The witnesses confirmed that the Board made no such request at the meeting. There was also no resolution passed to amend the Swap Transaction or to overturn the resolution of 31 March 2015.

[167] Ms Myeni's letter of 29 September 2015 had an immediate reaction from Airbus. On 1 October 2015, Mr Jerome Charieras of Airbus sent an email to Mr Meyer and Ms Mpshe explaining the consequences of the Board's failure to approve the Swap Transaction.

> *"Based on the Letter from South African Airways Chair received yesterday by Airbus it seems that the Board hasn't approved A320 swap by A330-300 yet.*
>
> *As explained in Hadi Akoum's letter dated 27th September 2015, SM is forcing us to go back to the A320 agreement until the A330 contract is approved.*
>
> *Therefore, you are going to receive a request for the outstanding PDP's of US$ 16,873,719.74 and another PDP's request for the soon to come November 2015 PDP's of US$ 22,421,660.91.*
>
> *These PDP's will be added to the already received PDP's and should SAA decided to move forward with the A330 agreement returned to SAA based on the documents signed on 30th July 2015."*

[168] On 6 October 2015, Ms Kwinana wrote to Ms Myeni and the Board, suggesting that SAA must urgently procure a transaction advisor to assist in making a decision. She made specific reference to the "*questions and concerns that you [Ms Myeni] raised*". At 10:03 pm, just half-an-hour later, Ms Myeni responded to Ms Kwinana's email stating the following:

> *Dear Chairperson of Audit and Risk*

I support this and would rather try and expedite this by writing to the entire board.

I know that 2 members of the board, being Mr Dixon and the CFO approved this long ago. But after the EXCO mentioned that they had never interrogated the swap at the EXCO meeting, it was evident that this was only done by a few people and then round robined this to the rest of the EXO members. There was absolutely no ownership of these huge numbers at EXCO level. Can this stand public scrutiny?

I take your advice and will send a memo to the Board

Regards."

[169] Mr Dixon and Mr Meyer were strongly against a transaction advisor, as appeared from their emails. In his correspondence and his testimony, Mr Meyer also strongly disputed that the Swap Transaction had only been approved by two board members and was not interrogated by EXCO. The Swap Transaction had, in fact, received unanimous Board approval on 31 March 2015. On 7 October 2015, Mr Meyer responded pointing out that "*[t]he Chair already indicated to Airbus that the Board supports the transaction and that it was only the South African lease vehicle issue being the stumbling block and now this? We are losing all credibility*". On the same day, Mr Dixon responded recording his strong objections to the appointment of a transaction advisor, as appears in his email. Mr Dixon further pointed out that there was nothing stopping the Board from exploring the option of a local leasing company after the Swap Transaction was concluded.

[170] On 8 October 2015, Mr Meyer sent a further email to the Board again emphasising that no transaction advisor was needed. He further advised that the delays in concluding the Swap Transaction would

impact on SAA's cash flow and would potentially trigger cross-default clauses. Mr Bosc responded to add that SAA had already consulted no less than four transaction advisors on this deal. Following this exchange, Ms Myeni circulated a letter to the Board in which she personally recommended the appointment of Quartile Capital as the transaction advisor.

[171] During Ms Mpshe's testimony, Ms Myeni's counsel raised an objection to this letter, claiming that it was an unsigned, undated letter which was inadmissible. This objection was out of time as the admissibility of this letter had already been determined by agreement between the parties in the pre-trial minute of 16 October 2019. In response to the objection, the court ruled that in the absence of any reasonable notice of the objection, the document was admissible and that the only issue is the weight to be given to the document, which was a matter for argument.

[172] That objection was in due course overtaken by events. The plaintiffs subsequently subpoenaed the signed version from SAA which was then produced by SAA's Company Secretary, Ms Kibuuka. The signed version, bearing Ms Myeni's signature, was dated 12 October 2015. In this letter, Ms Myeni repeated her claim that the Swap Transaction did not enjoy full Board and EXCO support. Ms Myeni's further indicated that she was aware of some unidentified third party that indicated that it wished to make a funding proposal for the Swap Transaction. This consortium comprised both private and state controlled financial institutions according to her. Ms Myeni stated that she had personally

approached Quartile Capital to be the transaction advisor on the Swap Transaction and that she had considered them as they are perceived to be independent and credible. She sought to justify this step by claiming that there was now urgency which was largely dictated by circumstances which were outside the control of the Board.

[173] Both Mr Meyer and Ms Halstead testified that the attempt to procure the services of a transactional advisor directly, without any open and competitive tender process was manifestly unlawful. There had also been no application to Treasury to permit a deviation from normal procurement procedures.

[174] This appointment of a transaction advisor appeared to have been confirmed on 23 October 2015, when the Board resolved "*to approve the engagement of a competent transactional adviser to deliver, validate and / or enhance the A320 / A330 swap transaction, and the R15 Billion Funding Requirement and RFP.*" This resolution further provided that "*management should explore the option of negotiating a reasonable success fee based on the savings realised*".

[175] Mr Meyer raised his objections to the appointment of a transaction advisor in a letter to the Board, dated 26 October 2015. He specifically noted that no proper procurement process had been followed and that there was no non-disclosure agreement with Quartile Capital. He also made reference to a report on the Swap Transaction, which had been prepared by Quartile Capital, in its capacity as a transaction advisor,

and stated that he reviewed the proposal from Quartile Capital and realized that it displayed a lack of aptitude and understanding of the transaction. Mr Meyer's email and his testimony indicated that Quartile Capital was indeed involved at the time, contrary to Ms Myeni's claims to know nothing about its role.

[176] On 10 October 2015, certain members of the Board met with Mr Hadi Akoum of Airbus to again discuss the Swap Transaction. Ms Kwinana, Dr Tambi, Mr Dixon and Mr Meyer attended the initial meeting. Mr Meyer testified that after he and Mr Dixon left the initial meeting, Ms Myeni and Mr Motloba of Quartile Capital arrived and conducted a second meeting with Mr Akoum. Mr Meyer further testified that he had seen Mr Motloba of Quartile Capital in the lobby of the hotel on his way to the meeting and was aware of his presence.

[177] On 14 October 2015, Mr Akoum wrote directly to Ms Myeni, again on first name terms. In this letter, Mr Akoum referred to the private meeting with Ms Myeni on 10 October 2015. He again indicated that Airbus rejected SAA's request to entertain a sale-down of the lease transaction to the African Aircraft Leasing Company, as a precondition for the Swap Transaction. Instead Airbus suggested to sell SAA the five A330's. SAA would then enter into a sale and leaseback with the African Aircraft Leasing Company. This meant SAA would immediately be liable to pay PDP's to the value of USD17 million and an additional USD100m within 30 days of execution of the deal. Mr Akoum demanded a response by 16 October 2015.

[178] Mr Meyer testified that he was startled by Mr Akoum's letter, as he had not been consulted on any proposal to purchase the five aircraft directly from Airbus. He testified that SAA did not have USD 117 million that would now be required in thirty days under a sale agreement. Later that day, also on 14 October 2015, Mr Meyer wrote to Ms Cynthia Stimpel, SAA Treasurer, indicating that he had not been party to the discussions with Airbus about the direct purchase of the A330s, that this would have significant financial implications, that SAA did not have the liquidity required for this new deal, and that National Treasury had immediately to be alerted to this new development and the financial implications.

[179] On 15 October 2015, Mr Meyer sent a letter to the Director General of National Treasury, Mr Lungile Fuzile, wherein he explained that in light of these new developments and the delay in concluding the Swap Transaction, SAA would likely be unable to meet its debt obligations. He attached Mr Akoum's letter of 14 October 2015 to alert Treasury to the danger. Ms Halstead testified that, had it not been for Mr Meyer's correspondence, Treasury would likely have been entirely unaware of Airbus's position and the risk of over USD 100 million in PDP's that were to be paid. Mr Meyer testified that he sent this letter to Treasury, because he was aware that Ms Myeni would not do so, despite the obligation on the Board to alert Treasury to any potential defaults on SAA's obligations in terms of SAA's Guarantee Framework Agreement.

[180] Mr Meyer's warnings to Treasury were echoed in a memorandum prepared for the SAA Board on 6 November 2015. Ms Mpshe submitted

this memorandum to the Board, reflecting a legal opinion on the consequences of further delays in the conclusion of the Swap Transaction. Ms Myeni did not respond to these warnings.

[181] While these events were unfolding, Minister Nene was in regular correspondence with Ms Myeni. His correspondence reflected Treasury's increasing concern at the dangers facing SAA. On 29 September 2015, Ms Myeni wrote to the Minister, indicating that a local leasing company was being explored for the Swap Transaction. A copy of this letter was never discovered by SAA, but its tenor is apparent from the Minister's reply.

[182] The Minister responded to Ms Myeni in a letter dated 30 September 2015. He reiterated that any amendment to the approved Swap Transaction should leave SAA in a better financial position. He also required that SAA submit details, including a comprehensive business case for the proposed alternatives for his consideration. Minister Nene concluded his letter by highlighting the grave consequences of SAA's delays in finalising its financial statements, which was in large part caused by the delay in concluding the Swap Transaction.

[183] On 20 October 2015, Minister Nene sent a further letter to Ms Myeni. He noted that since his letter of 30 September, Ms Myeni had failed to provide any further feedback on outstanding matters before the going concern guarantee would be considered. He further emphasised that no funding allocation would be made to SAA given the tight fiscal position.

[184] On 3 November 2015, Minister Nene sent a further letter to Ms Myeni addressing the delays in concluding the Swap Transaction. Minister Nene referred to a meeting held with Ms Myeni on 2 November 2015, where her proposed changes to the Swap Transaction were discussed. Minister Nene again expressed his frustration that the Swap Transaction had still not been concluded, and that SAA has not responded in more than three weeks despite the urgency of the matter. This was holding up consideration of the government guarantee and was preventing SAA from finalising its financial statements and holding its AGM.

[185] On 9 November 2015, Ms Myeni submitted the business case that had been requested by Minister Nene, setting out the proposed changes to the Swap Transaction. Ms Myeni signed the business case. Its original author remained unknown. Mr Meyer testified that he had never seen this business case, he was not consulted on its contents, and it was not discussed at Board level. This was despite the fact that he was still the CFO at the time and he would ordinarily have been directly involved in preparing such documents.

[186] Ms Halstead testified that her team at Treasury conducted an analysis of this business case that highlighted many gaps, flaws and misstatements. She pointed out that Ms Myeni's proposals were contradictory and ambiguous. All of the possible options that SAA might have been contemplating reflected a material amendment to the original Swap Transaction, requiring that they sought approval from the Minister of Finance in terms of Section 54(2) of the PFMA. No such application

had been submitted. As a result of Mr Meyer's warnings, Treasury was aware that, should SAA be responsible for purchasing the A330 aircraft, USD117 million in PDP's would be payable within 30 days. However, Ms Myeni's business case claimed that no PDP's would be payable at all.

[187] Ms Myeni claimed that SAA would follow due process to secure a local leasing company and possible financiers, but no procurement process had been commenced, which would have taken a long time to reach finality. A proper process could not be completed in 30 days, according to Mr Meyer and Ms Halstead.

[188] The Minister wrote to Ms Myeni on 10 November 2015 and again on 12 November 2015, indicating that the business case provided little in the way of concrete information that would be required to make an informed decision. In his letter of 10 November 2015, Minister Nene highlighted the ongoing serious corporate governance and fiduciary failures on the part of the Board by failing to conclude the Swap Transaction.

[189] In his letter of 12 November 2015, the Minister further advised Ms Myeni that the changes to the Swap Transaction, that she was considering, would constitute a significant amendment to the transaction and would therefore require that SAA reapply for approval in terms of Section 54(2) of the PFMA. He underlined that this application should be submitted by 16 November 2015, failing which no further discussions or applications relating to the amendment of the transaction structure would be

entertained and SAA would be required to implement the transaction structure in line with the approval that had already been granted.

[190] He directed that SAA was to provide certain information in a section 54 application. This should include all costs that the airline would incur in respect of the transaction, including the lease rate at which the local leasing company had committed to lease the aircraft to SAA, financing costs that would be incurred, return conditions, penalties, cabin configuration etc. In the event of an outright purchase, the expected residual value of the aircraft at the end of a twelve year period with an explanation of how this value was estimated. It should also include cash flow and profitability projections over the full life time of the transaction and the approach to ensure that SAA would have the cash resources available to meet all payments when they fall due. The background information regarding the company from which the aircraft would be leased, including a financial and legal due diligence. It should explain the process followed in selecting the company from which the aircraft would be leased, through a procurement process, that was in line with all legislative requirements and all related legal agreements.

[191] At this point all the senior executives who were opposed to Ms Myeni's plan were removed. Mr Bosc was placed on special leave during early October 2015, Ms Mpshe was removed from her position as acting CEO on 13 November 2015. Mr Meyer tendered his resignation on 12 November 2015 and left SAA on the same day, as he said that his

relationship with Ms Myeni became intolerable. Mr Dixon had also resigned shortly before Mr Meyer.

[192] Mr Bosc, Ms Mpshe and Mr Meyer testified that they played no role in preparing the section 54 application that was subsequently submitted to the Minister, nor were they consulted on this application. Mr Meyer had been involved in the preparation of the original section 54 application, which was submitted in May 2015, but was now excluded from the process.

[193] On 16 November 2015, Ms Myeni submitted the new section 54 application to the Minister. Ms Myeni sought approval to amend the approved Swap Transaction to insert an African Aircraft Leasing Company, to be financed by an unidentified local consortium of banks.

[194] Ms Myeni's signed a covering letter to the application setting out the core of the justification for this amendment. Mr Bosc, Ms Mpshe, Mr Meyer and Ms Halstead highlighted significant errors, falsehoods, and omissions during their evidence. Their analysis was reflected in the Minister's letters of 24 November 2015 and 3 December 2015, which provided a more restrained, but equally scathing analysis.

[195] In her covering letter, Ms Myeni referred to the alleged benefits of a lease in rand. She claimed that this would save SAA approximately R2.6 billion in currency hedging costs as a ZAR lease would have no hedging costs. Mr Bosc, Ms Mpshe, Mr Meyer and Ms Halstead testified

that this was manifestly false. There will always be currency hedging costs, regardless of the structure of the lease. A local leasing company, or some other middleman would still have to pay Airbus for the aircraft in US dollars, regardless of the structure of the transaction. The currency risk would then be passed on to SAA in some way, either directly or by building the costs into the price of the lease.

[196] Ms Halstead and Mr Meyer further testified that the R2.6 billion hedging cost was grossly inflated and was entirely unsubstantiated. Ms Halstead testified that she had personally spoken to several financial institutions to obtain indicative hedging costs, which came back at a small fraction of this amount.

[197] Ms Myeni also suggested that her proposal would somehow leave SAA with an asset. This statement made no sense, as Ms Myeni was still proposing that SAA would lease the aircraft, rather than acquiring them directly. Moreover, Mr Bosc and Mr Meyer testified that wide-body aircraft like the A330 lose a substantial proportion of their value over time and cannot easily be resold, making a lease a far less risky option than an outright purchase.

[198] Ms Myeni further stated to the Minister that the options in the SAA business case presented to him were not for SAA to either acquire outright the five A330s, or enter into a ZAR denominated lease. SAA's business proposal was, according to her, to facilitate, from the local financial institutions, the outright acquisition / purchase of the five A330s and, leasing them to SAA by way of a ZAR denominated lease. Ms

Halstead testified that the precise nature of this proposal remained unclear, as it was uncertain whether Ms Myeni was proposing that SAA purchase the aircraft and then engage in a sale-and-leaseback, or whether the local aircraft leasing company would be acquiring these aircraft directly from Airbus.

[199] These different options involved very different legal and practical challenges. Either of these scenarios would still have involved lengthy and complex procurement processes, which would have taken many months to complete and would have required further section 54 approvals. Mr Meyer testified that from his experience in concluding the Pembroke deal during 2013, such a process could take between three and six months minimum. In fact, the proposed deal would have required far more time. The Pembroke deal had involved an established and reputable international aircraft leasing company, in contrast with this proposal where Ms Myeni was now envisaging the creation of a new local aircraft leasing company from scratch. In this case, there was simply no time to follow such a lengthy and complex process, as Airbus had made clear that it required finality on the matter within 30 days.

[200] Ms Myeni stated that in respect of the rates that the South African lessor would charge SAA for the five A330s, and any antecedent financial terms and conditions, these would be negotiated and finalised as soon as the procurement process of the South African financial institution(s) was complete. This was further confirmation that the transaction was entirely speculative, as it still relied on a procurement process being

followed at some later date. Ms Myeni concluded her letter by claiming that there was no real urgency to complete the transaction, as she alleged that no PDP's were in fact due and payable.

[201] Ms Myeni attached to her covering letter an email from Airbus, dated 16 November 2015 In this email, Mr Akoum referred to earlier correspondence from Ms Myeni dated 11 November 2015 and stated the following:

> *"Dear Chairperson,*
>
> *Airbus is willing exceptionally to give SAA another 30 days exemption from its obligations on the A320 due PDP payment until we have a clear understanding on how Nedbank would be financing the direct purchase by SAA of the 5 A330-300. MY team will contact SAA acting CEO to define a date for the joined meeting with Nedbank."*

[202] Contrary to what Ms Myeni claimed, this email demonstrated that Airbus was still insisting on payment of the PDP's. Furthermore, Airbus' reference to a meeting with Nedbank indicated that Airbus had either been told or led to believe that Nedbank would be financing the deal. Ms Myeni accepted this proposal under cross-examination.

[203] A further attachment to the section 54 application, sent by Ms Myeni was an "unsolicited proposal" on a Nedbank letterhead, signed by a Mr Masotsha Mngadi. The letter is dated 30 October 2015 and was addressed directly to the Board members. The plaintiffs' witnesses noted that this letter was highly suspicious. Ms Halstead testified that she and her Treasury team were having weekly meetings with the major banks at the time, including Nedbank. At no time had Nedbank ever

indicated that they had made or approved any such unsolicited proposal for the financing of these aircraft. Ms Halstead further testified that she became aware of Mr Mngadi in 2016, when it emerged that he was acting for BNP Capital, which had been improperly appointed as a transaction advisor for SAA's R15 billion recapitalisation plan. Mr Mngadi was later fired by Nedbank for his involvement in that deal.

[204] Mr Meyer testified that he was never shown this letter, even though he was still CFO when it was ostensibly sent to the Board. He testified that any such unsolicited proposal ought to have been directed through his office and through the EXCO. It was highly improper for such a letter to be sent directly to the Board and for Ms Myeni to then use this unsolicited proposal to justify the section 54 amendment application. In any event, Mr Mngadi's letter was not an offer of finance, but was merely a speculative proposal which was still subject to proper procurement processes being followed.

[205] Under cross-examination, Ms Myeni was asked to explain why this Court should not find her grossly negligent in allowing such a defective section 54 application to be submitted under her name. She declined to offer any answer, even when pressed by the court. She was content to state that "*my non-response does not mean that I was grossly negligent*". When pressed further, Ms Myeni suggested that it was not her job to prepare such applications and that this was the task of the CEO and EXCO. She stated "*The CEO [Musa Zwane] signed it … I*

assumed that it must have gone through all the relevant EXCO approvals".

[206] There was no evidence whatsoever that the section 54 application went through any proper EXCO process. The documents bore all the hallmarks of having been prepared by Ms Myeni and the remaining Board members themselves, without any meaningful input from the executive. This was apparent from several significant features of these documents. The section 54 application form contained only two signatures, Ms Myeni's and Mr Zwane's, the new Acting CEO. There were no signatures from any other members of the EXCO or the company secretary, as would be expected in such an application.

[207] Even if Mr Zwane, the Acting CEO, had some role in preparing this application, it would have been entirely unreasonable for Ms Myeni to simply rubber-stamp his work. Ms Myeni knew full well that Mr Zwane had been in the position for no more than three days, after Ms Mpshe was removed from her position on 13 November 2015. The CFO, Mr Meyer, had resigned on 12 November 2015, and confirmed in his testimony that he was not consulted on this section 54 application before his departure. In these circumstances, a responsible chairperson would have closely scrutinised the section 54 application, knowing that the acting CEO had no prior involvement in the matter.

[208] Ms Myeni attempted to cast doubt on the authenticity of this section 54 application, suggesting that there was "*something sinister about this*

document". No such version had been put to any of the plaintiffs' witnesses. In any event, Ms Myeni submitted the self-same section 54 application to the Minister of Finance on 17 December 2015, complete with all the same deficiencies and errors. Her belated attempt to cast doubt on the 16 November 2015 application can only point to dishonesty.

[209] On 24 November 2015, the Minister pointed out serious flaws in the section 54 application and directed Ms Myeni to provide further information by 27 November 2015. Ms Myeni responded on 30 November 2015, providing some further information, but not enough to satisfy the Minister and his team.

[210] On 3 December 2015, the Minister of Finance declined Ms Myeni's request to amend the existing section 54 approval. Minister Nene further directed that Ms Myeni and the remaining SAA Board members must conclude the approved Swap Transaction without delay and by no later than 21 December 2015, which was the deadline set by Airbus. Failure to meet that deadline would mean that Airbus would issue a default notice in respect of the outstanding PDP's. On 9 December 2015, Minister Nene was fired by the former President, Mr Zuma and replaced by Minister Des Van Rooyen. On 13 December 2015 Minister Van Rooyen was replaced by Minister Gordhan as Minister of Finance.

[211] On 15 December 2015, shortly after taking office, Minister Gordhan wrote to Ms Myeni, recording their conversation earlier that day.

Minister Gordhan's letter started by acknowledging the turmoil of the previous week, the speculation surrounding SAA's involvement in Minister Nene's removal, and the need for swift action to restore market confidence.

[212] Minister Gordhan indicated that he was willing to afford Ms Myeni one final opportunity to make out a case for the proposed amendments to the approved Swap Transaction. He further arranged for a meeting between SAA and the Deputy Minister for the following day, 16 December 2015. Ms Halstead testified that Ms Myeni and the other non-executive Board members failed to attend that meeting, as is reflected in the minutes.

[213] On 17 December 2015, Ms Myeni submitted a section 54 application to Minister Gordhan. Apart from a new covering letter, this application was identical to the application of 16 November 2015. On 20 December 2015, Minister Gordhan rejected the amended section 54 application on the same grounds as his predecessor.

[214] He directed that SAA was to conclude the Swap Transaction by 21 December 2015 and he outlined a detailed series of deadlines for the actions necessary to conclude this deal in time. He specified that this would require that, the Board approve execution of the Swap Transaction, either through a meeting in person, teleconference or through round robin. The Board's resolution to execute the lease transaction with Airbus was to be provided to his office by 13h00 on 21

December 2015. The Board's decision was to be communicated to Airbus and confirmation was to be obtained in writing from Airbus that it was in agreement. The confirmation from Airbus was to be provided to his office by as soon as it was received, but before close of business on 21 December 2015, and a press statement would be released at 15h00 by National Treasury on 21 December 2015, which should preferably be done as a joint statement with SAA.

[215] Minister Gordhan concluded his letter by calling on Ms Myeni and the SAA Board to show leadership at a time of national crisis and stated that a failure to do so would constitute a collective neglect of fiduciary responsibility to SAA and the country.

[216] In her testimony, Ms Halstead detailed the events of 21 December 2015. On that day, she worked closely with other Treasury officials, including Mr Momoniat, the Acting DG, in attempting to conclude the Swap Transaction. They were in contact with the Minister regularly throughout the day. Ms Halstead testified that, to her knowledge, Ms Myeni, Ms Kwinana and Dr Tambi were travelling, creating challenges in securing a round robin approval of the transaction. This was despite the fact that it should have been well known to all of the Board members that 21 December 2015 was the deadline for concluding on the transaction, failing which SAA would have to pay the PDP's. Despite this threatening disaster, Ms Myeni had made no proactive efforts to coordinate the Board members and to convene a special Board meeting ahead of time. Ms Myeni admitted as much under cross-examination.

[217] Ms Halstead further testified that Ms Myeni reported to the Minister that she had received a letter from Ms Kwinana, resigning from the Board. The Minister directed Ms Myeni to share a copy of the letter with him. Up to the date of the conclusion of the trial, no copy of such a letter had ever been provided and, despite having supposedly served her resignation, Ms Kwinana continued serving on the board until August 2016.

[218] Late on the afternoon of 21 December 2015, Mr Momoniat contacted Mr Akoum of Airbus by finding his telephone number on an Airbus letterhead. Ms Halstead testified that she was in Mr Momoniat's office at the time and listened in on the call. Mr Akoum stated that no one from SAA had made any contact with Airbus that day, to explain the situation, or to inform them of the way forward before close of business on 21 December 2015. Nevertheless, Mr Akoum agreed to provide an additional twenty four hours to resolve the matter.

[219] It later emerged that Ms Myeni had received a letter from Airbus on the morning of 21 December 2015, but the contents were only shared with National Treasury after they called Airbus directly. Airbus's letter clearly outlined that in order for SAA to conclude the Swap Transaction, as the Minister had directed, Airbus required that by close of business on 21 December 2015 the SAA Board had to confirm in writing its unconditional approval of the Swap Transaction as agreed. If no such approval was delivered, Airbus would immediately issue a default notice in respect of the outstanding PDP's.

[220] Late during the evening, the Company Secretary reported to National Treasury that she had finally secured the necessary approvals. The Board resolution was only communicated to Treasury and Airbus on 22 December 2015.

[221] The only evidence of a resolution was found in a document that merely confirmed that on 31 March 2015 the Board approved the Swap Transaction. No other resolutions had been discovered or delivered, despite subpoenas issued to SAA and National Treasury. Ms Halstead confirmed that to the best of her recollection, this was the document that was sent to National Treasury on 22 December 2015. Ms Myeni did not dispute this during her evidence.

[222] It was clear from the evidence that despite all the delays Ms Myeni and the Board on 22 December 2015, merely confirmed the Resolution of 31 March 2015, which begs the question why the matter was delayed.

[223] Ms Halstead and Mr Meyer both gave evidence about the likely consequences for SAA and the country had Treasury not intervened. Their evidence stood uncontested. SAA had no money to pay the outstanding PDP's. Had Airbus issued a default notice, this would have triggered the cross-default clauses and the acceleration of billions of Rand in debt. SAA would have been forced into business rescue or liquidation. The government would also have faced a call on its guarantees, jeopardising the fiscus at a time of economic and political

turmoil. In Ms Halstead's words this would have had a catastrophic domino effect on other SOE's and the economy.

[224] Faced with all of these risks, Ms Myeni's attitude seemed to be one of supine indifference. No effort was made to convene a special Board meeting in advance of the 21 December 2015 deadline, let alone arrange for Board members to be contactable on the day. Most damning was the fact that Ms Myeni and the Board members also made no attempt to contact Airbus that day, despite the fact that Ms Myeni had little difficulty in corresponding with Airbus directly on previous occasions.

[225] When confronted with this evidence, Ms Myeni merely claimed that she had personally signed a resolution on 21 December 2015, but was at a loss to explain what further steps she had taken to contact Airbus or to ensure that the other necessary signatures were obtained in time.

[226] Ms Myeni's version on the Swap Transaction was inconsistent, and generally incomprehensible. In the cross-examination of Mr Bosc, Ms Myeni's counsel failed to put any meaningful version on the Airbus deal to him. This Court warned counsel of the consequences. Similarly, Ms Myeni's counsel failed to present anything resembling a full or complete version to Ms Mpshe or Ms Halstead. The majority of their evidence was left uncontested, despite this Court's further warnings.

[227] It was only during Mr Meyer's testimony that Ms Myeni's counsel presented something approximating a version. This version attempted to distance Ms Myeni from the events by claiming that she had not attended any meetings with Airbus, that she was merely a mouthpiece for the Board, and was caught in the middle between different factions. Mr Meyer responded that this was incorrect, as Ms Myeni had played the leading role in attempting to renegotiate the Swap Transaction and that she had direct dealings with Airbus throughout. His evidence was supported by all the correspondence presented during the trial.

[228] In her testimony, Ms Myeni attempted to deny any individual responsibility. While she, at this point, admitted to meeting with Airbus on 10 October 2015 and to corresponding directly with Airbus's representatives, she continued to claim that she was merely acting on behalf of a "collective". She repeatedly attempted to pass the buck to Ms Kwinana, Dr Tambi, and other unnamed members of the executive, whom she claimed were in favour of renegotiating the Swap Transaction. She refused to give any clear answer as to whether she in fact supported or opposed the original Swap Transaction, but continuously insisted that the Board wanted to weigh up all options. It was clear that Ms Myeni was in favour of only a single option, namely the insertion of an unidentified African Aircraft Leasing Company as a precondition for concluding the deal.

[229] Ms Myeni was at a complete loss to explain why she had supported the Swap Transaction in March 2015 and had signed the section 54

application in May 2015, but later on sought to second-guess that decision. Ms Myeni could not explain why the Board did not simply ratify the Swap Transaction and then later explore the option of a local aircraft leasing vehicle. The question was put to her repeatedly, both by counsel and by the Court, but she provided no coherent or logical response. She in fact admitted that she could provide no answer.

[230] The evidence clearly indicated Ms Myeni's obstruction and delay of the Swap Transaction. As chairperson of the Board she did not show any concern for the catastrophic consequences of her actions not only for SAA but the country.

CONCLUSION

[231] In light of all the evidence a determination must be made of whether a declaration of delinquency under section 162(5) is appropriate and if so, for which period it should apply. It is a matter of public record that SAA is presently under business rescue. While writing this judgment Covid-19 and its devastating consequences also reached our shores. We are experiencing the perfect storm, our economy is faltering our SOE's are limping along with difficulty and SAA might in all probability finally be pushed over the abyss and countless employees may lose their jobs.

[232] Ms Myeni's evidence posed serious difficulties for her defence. The versions put on her behalf during the trial changed, the plaintiffs' witnesses did not get the opportunity to answer to crucial aspects of her

evidence, as it was never put to them and her evidence contradicted her plea. She did not deem it fit to attend the trial during the Plaintiff's presentation of their case. Her reasons for not attending Court was unconvincing. Countless truly poor and uneducated South Africans manage to attend Court proceedings with great difficulty. Her pleading poverty is distasteful in the light of the plight of millions unemployed people. She is by all accounts a professional woman who served and still serve as director of several companies. She is one of the privileged few.

[233] Ms Myeni was a dishonest and unreliable witness. A perusal of the evidence as set out above illustrates abundantly that her evidence was unreliable and more often than not, blatantly untrue. As a result her version of events cannot be accepted.

[234] The failure to put a proper version to all the witnesses and the numerous contradictions which revealed itself during her evidence poses a serious difficulty for Ms Myeni's defence. It is trite that if a defendant wishes to contradict the evidence of an opposing witness, or to draw a negative inference, or imputation about that witness, that version must be put to the witness in cross-examination to allow him or her an opportunity to respond. In **President of the Republic of South Africa v SARFU,**[29] these principles were set out as follows:

[29] President of the Republic of South Africa and Others v South African Rugby Football Union and Others 2000 (1) SA 1 (CC)

> "*[61] The institution of cross-examination not only constitutes a right, it also imposes certain obligations. As a general rule it is essential, when it is intended to suggest that a witness is not speaking the truth on a particular point, to direct the witness's attention to the fact by questions put in cross-examination showing that the imputation is intended to be made and to afford the witness an opportunity, while still in the witness box, of giving any explanation open to the witness and of defending his or her character. If a point in dispute is left unchallenged in cross-examination, the party calling the witness is entitled to assume that the unchallenged witness's testimony is accepted as correct. This rule was enunciated by the House of Lords in Browne v Dunn and has been adopted and consistently followed by our courts."*
>
> *[62] The rule in Browne v Dunn is not merely one of professional practice but "is essential to fair play and fair dealing with witnesses". It is still current in England] and has been adopted and followed in substantially the same form in the Commonwealth jurisdictions.*
>
> *[63] The precise nature of the imputation should be made clear to the witness so that it can be met and destroyed, particularly where the imputation relies upon inferences to be drawn from other evidence in the proceedings. It should be made clear not only that the evidence is to be challenged but also how it is to be challenged. This is so because the witness must be given an opportunity to deny the challenge, to call corroborative evidence, to qualify the evidence given by the witness or others and to explain contradictions on which reliance is to be placed."*[30]

[235] This was manifestly not done. Counsel for Ms Myeni was warned about the failure to put a proper version to the witnesses. Maybe if Ms Myenio bothered to attend the trial, she could have instructed her counsel properly. She has only herself to blame for the shortcomings in the presentation of her case.

[236] However, the Court must despite the aforesaid determine whether the Plaintiffs' succeeded in proving their case, with reference to the

[30] Par 32

applicable legal principals. In order to determine whether the requirements of section 162(5) were met, to declare her a delinquent director, her actions must be measured against what was required of her as a chairperson and Board member of SAA.

[237] The evidence as set out above speaks for itself , it does not reveal one single legitimate reason why Ms Myeni, frustrated and ultimately caused the demise of the lucrative Emirates deal, which if it could not have saved SAA, could at least have strengthened its financial position considerably and would have limited some of the financial fall out. It might even have been in a position to whether the storm that it is facing now. Her evidence explaining the events and her actions during the course of this deal was unconvincing and were both inexplicable and reckless. One cannot but suspect that there were some other forces at play, behind the scenes, but it is not for this Court to venture into the realm of speculation.

[238] In my view Ms Myeni's conduct in blocking the Emirates deal satisfies multiple grounds of delinquency under section 162(5)(c) of the Companies Act. Not only did she deliberately or through gross negligence inflict substantial harm on SAA, but her belated attempts to justify her conduct show that she acted dishonestly, in bad faith and not in the best interests of SAA and the country.

[239] Regarding the Airbus deal, Ms Myeni's version was inconsistent and sometimes even incomprehensible. In the cross-examination of Mr

Bosc, Ms Myeni's counsel failed to put any meaningful version on the Airbus deal to him. Similarly, Ms Myeni's counsel failed to present anything resembling a full or complete version to Ms Mpshe or Ms Halstead. The majority of their evidence was left uncontested. As stated previously it was only during Mr Meyer's testimony that something approximating a version was put to him.

[240] In her testimony, Ms Myeni attempted to deny any individual responsibility. She claimed that she was merely acting on behalf of a "collective" as set out above. The legal framework referred to above dealt comprehensively with the fact that directors can either collectively or individually be held responsible. Ms Myeni cannot hide behind the so-called "collective", but must take responsibility for her actions. She is after all an experienced director, with years of experience serving at not only at SAA, but also on other Boards.

[241] It is also unclear who this "collective" was. It could only have been Ms Myeni, Dr Tambi and Ms Kwinana, as we knew that the evidence was clear that the other Board members pressed for the conclusion of the Swap Transaction.

[242] Under the Companies' Act, the Board of directors of a company have collective and ultimate responsibility for management of the company in terms of section 66 (1). Section 66(1) provides that:

> *"the business and affairs of a company must be managed by or under the direction of its board, which has the authority to*

exercise all of the powers and perform any of the functions of the company, except to the extent that this Act or the company's memorandum of incorporation provides otherwise."

[243] However, this collective responsibility is operationalised by converting it into individualised responsibility and liability for each of the Board members. The individual duties of all company directors are now partially codified in the Companies Act. In particular, sections 76(2)(a) and 76(3) of the Companies Act entrench the fiduciary duties of directors and the duties of care, skill and diligence as fully set out above. Minister Nene warned her in his correspondence that the Board was not executing its fiduciary duty, but this warning made no impression on her as her actions illustrated.

[244] Ms Myeni's 29 September 2015 letter to Airbus was at the very least, grossly negligent, as it misrepresented the facts to Airbus and was sent without Board authority. The evidence established incontrovertibly that Ms Myeni's letter contained false statements, including a statement that she was acting on behalf of the Board.

[245] It was false of Ms Myeni to claim that the full Board still had to be satisfied that the deal was in the best interest of SAA as the full Board had already unanimously approved the Swap Transaction in their resolution of 31 March 2015.

[246] The only plausible inference that can be drawn from the evidence is that Ms Myeni made misrepresentations to Airbus and the Minister knowingly

and wilfully. Ms Myeni could have been in no doubt about the content of the letter to Airbus and the gravity of the changes to the transaction that she was proposing. As chairperson of the Board, Ms Myeni would also have known full well that there was no Board resolution to authorise her actions. Therefore, this Court can only conclude that there was deliberate dishonesty and a gross abuse of power by her, as contemplated in section 162(5)(c)(i) of the Companies Act.

[247] The letter to Airbus was further in breach of section 77(3)(a) of the Companies Act, read with section 162(5)(c)(iv)(bb), as Ms Myeni plainly acted in the name of the company, and signed it on behalf of the company, despite knowing that she lacked the authority to do so. On Ms Myeni's own admission, there was no Board resolution at the time authorising her to unilaterally change a deal that had already been approved by the Board and the Minister.

[248] Under cross-examination, Ms Myeni confirmed that before sending this letter she took no steps to check whether there was a Board resolution to support such a change, the evidence shows that she made no attempt to discuss the contents of the letter with other Board members, nor did she even circulate this letter to other Board members in advance. On her own admission, there was no care taken on a significant letter that jeopardised the entire Swap Transaction and exposed SAA to financial ruin.

[249] The mere fact that Ms Myeni attempted to unilaterally renegotiate the Swap Transaction with Airbus, following more than nine months of work by specialists and experts on the existing deal, is itself indicative of recklessness, as with her vast experience she must have known better.

[250] In her plea, Ms Myeni's only defence was to deny that she had ever represented to Airbus that the Board had decided to change the transaction. The content of Ms Myeni's letter gives lie to what was contained in the pleadings. Ms Myeni was plainly representing that the Board had taken a decision to effect a significant change to the deal.

[251] In her evidence and under cross examination, Ms Myeni sought to advance another defence that contradicted her plea. She appeared to claim, contrary to the evidence, that there was a Board resolution for introduction of the "African Aircraft Leasing Company", despite her plea admitting that there was no such resolution. Ms Myeni's application to withdraw her admissions was refused and no further application for any amendment to her pleadings was made, despite the Court's invitation to do so if the evidence should justify it. As a result the admissions made in her pleadings stand. [31]

[252] A further ground for declaration of delinquency is that Ms Myeni's 16 November 2015 application to the Minister to approve the section 54(2) approval was dishonest and failed to disclose material facts. She did not reveal that there was no Board resolution to bring this application and

[31] Myeni v Organisation Undoing Tax Abuse NPC and Others [2019] ZAGPPHC 565 (2 December 2019)

furthermore misrepresented to the Minister that Airbus would not insist on payment of the PDP's as set out above.

[253] Directors' duties of good faith and honesty are set out in the PFMA. Section 50(1)(b) requires of directors of public entities to "*act with fidelity, honesty, integrity and in the best interests of the public entity*". Section 50(c) goes further by imposing a duty of disclosure. Directors of public entities must "*on request, disclose to the executive authority responsible for that public entity ... all material facts, including those reasonably discoverable, which in any way may influence the decisions or actions of the executive authority...*". Ms Myeni failed to disclose material facts and did not act in the best interests of SAA by sabotaging the Emirates deal and nearly ruining the Airbus transcation.

[254] Honesty and full disclosure have particular significance under section 54(2) of the PFMA. A Minister can only exercise effective oversight over major transactions that require his or her approval, if information is presented honestly, fully and accurately. Ms Halstead, Mr Bosc, Ms Mpshe and Mr Meyer pointed out a long list of falsehoods, misrepresentations and omissions of material facts in Ms Myeni's covering letter to the section 54(2) application and the accompanying documents. Their evidence stands uncontradicted.

[255] Ms Myeni could have been in no doubt as to the true facts at the time she signed off on the section 54 application to the Minister. Airbus had made its position clear in its correspondence and at the meeting of 10 October 2015. The issue of the PDP's was also set out in explicit detail

in Mr Meyer's repeated warnings to the Board, the 6 November 2015 opinion submitted to the Board by Ms Mpshe, and the Minister's letter of 12 November 2015. She clearly attempted to wilfully misrepresent the true facts to the Minister.

[256] Not only was Ms Myeni untruthful in the section 54 application, but the application also failed to disclose material facts that were directly relevant to the Minister's decision, in direct breach of her duties under section 50(1)(d) of the PFMA.

[257] Minister Nene's repeated insistence that Ms Myeni and the SAA Board provide further information could have left her in no doubt as to the need for full and frank disclosure. Her failure to take any care to ensure that the section 54 application contained all relevant information was, at the least grossly negligent. The section 54 application was also in breach of the PFMA and the Significance and Materiality Framework, as there was no evidence of any formal Board resolution to support this application.

[258] The Significance and Materiality Framework Agreement provides the procedural requirements for such a section 54 application. This Framework specifically requires that all section 54 applications must be accompanied by "*a certified resolution by the Board or appropriate Board committee as well as information on which the Board or committee based its resolution*".

[259] In the section 54 application, Ms Myeni explicitly recorded that a Board resolution was attached. The accompanying attachment was merely a "Board Submission" signed by Ms Myeni and Ms Kwinana. By all appearances, this submission was prepared and approved by Ms Myeni and Ms Kwinana alone. Ms Myeni herself conceded that this document was irregular.

[260] The evidence established that Ms Myeni knowingly took SAA and the country to the brink of disaster by delaying the conclusion of the Swap Transaction. Were it not for the intervention of the Minister of Finance and the efforts of Treasury officials in December 2015, SAA would have, at that point already, faced almost certain ruin.

[261] After the Minister's unconditional approval on 11 September 2015, the only outstanding requirement was for the Board to ratify the signatories to the Swap Transaction. Rather than doing so, the evidence demonstrates that Ms Myeni joined by Dr Tambi and Ms Kwinana failed or refused to ratify it. Ms Myeni then actively participated in efforts to renegotiate the Swap Transaction. The fact that she was supported in these efforts by Dr Tambi and Ms Kwinana does not in any way absolve her of individual responsibility. She signed off on the fraudulent letter to Airbus on 29 September 2015, she signed the proposals and section 54 amendment application, sent to Minister Nene on 16 November 2015. She inserted herself into negotiations with Airbus, and she supported the improper appointment of a transaction advisor, where it was not appropriate or necessary to appoint one.

[262] Ms Myeni admitted during cross-examination that the PDP's were in fact due and payable and that SAA did not have the money to pay PDP's. The uncontested evidence detailed above shows the dire consequences for SAA and the country if SAA had defaulted on these payments by delaying conclusion of the Swap Transaction.

[263] Ms Myeni displayed complete disregard for public funds. The court asked her whether it was her evidence that SAA had the money to pay the PDP's that were due and payable. She answered "*SAA belongs to government 100% ... they wouldn't allow SAA to fail.*" This answer revealed Ms Myeni's true attitude. She honestly believed that there was no problem if SAA defaulted on its debts, as the government and the public ought to have been saddled with SAA's debts, regardless of the consequences. This was despite the repeated and consistent warnings from Minister Nene that the government did not have the money to bail out SAA and would not do so.

[264] It is disconcerting that a non-executive Board member, let alone chairperson could interfere and could very nearly collapse a transaction, which would have brought SAA to its knees. This is what nearly happened during the Swap Transaction. The evidence illustrated how Ms Myeni did not comply with the direct instructions of the shareholder, represented at that time by Minister Nene as Minister of Finance and how she made no attempt to comply with deadlines set by him and later by Minister Gordhan. It is inconceivable that a chairperson of especially a SOE could be so dismissive of the shareholder's

instructions. The time line is also interesting, as the firing of Minister Nene's occurred a mere three days after he instructed her to see to the signing the Airbus Swap transaction.

[265] In delaying the conclusion of the Swap Transaction, Ms Myeni wilfully and recklessly contributed to SAA breaching its financial reporting obligations under the PFMA. Section 55 (1) of the PFMA requires the accounting authority of a public entity to prepare annual financial statements and submit such financial statements to the auditors as well as to the relevant treasury within two months after the financial year end. Section 55 further requires the accounting authority to submit the audited financial statements along with the auditor's report on the financial statements and an annual report to Treasury, the responsible executive authority and the Auditor-General (if it did not perform the audit) within five months of the end of the financial year. The report and audited financial statements must then be submitted for tabling in Parliament or the provincial legislature.[32]

[266] Section 65 (1) requires the executive authority responsible for the public entity, being the Minister of Finance, to table the annual report, audited financial statements and audit report in Parliament, within one month after the accounting authority has received the audit report. If the executive authority fails to table these documents in Parliament within six months, after the end of the financial year, subsection (2) obliges the

32 Section 55(1)(d)

executive authority to provide a written explanation to parliament in which case the Auditor-General may issue a special report on the delay.

[267] It follows that the SAA Board had a duty to prepare and submit SAA's financial statements to the auditors and Treasury on 31 May 2015. SAA then had until the 31 August 2015 to submit to National Treasury its annual report and audited financial statements together with the auditors' report. Treasury then had an obligation in terms of section 61 to table the relevant documents in Parliament within one month of receiving them from SAA, which would be 31 September 2015 at the latest.

[268] As reflected in Minister Nene's letter of 14 September 2015, the conclusion of the Swap Transaction was a pre-requisite for SAA to be granted the R5 billion government guarantees that would ensure that the company's 2014/2015 annual financial statements could be prepared on a going concern basis, as opposed to an insolvent basis. Despite Ms Myeni being made aware of this fact she took no steps to ensure that the resolution authorising the executives to sign the Airbus deal was approved. In fact, she did the opposite by attempting to renegotiate the existing Swap Transaction with Airbus. Despite numerous warnings, as is evident from the correspondence between Minister Nene, and later Minister Gordhan, and her, Ms Myeni failed to take expeditious steps to conclude the Swap Transaction. This conduct was wilful and in breach of her duties under the PFMA.

[269] In **Msimang NO and Another v Katuliiba and Others**,[33] the Court held that the reckless failure by two directors of a private company, *inter alia*, to ensure the timely preparation of annual financial statements for the company and to hold AGMs was sufficient for an order declaring them to be delinquent directors. This case is even more deserving of a delinquency order, as the impact of these breaches was not confined to a narrow class of private shareholders. As a state-owned entity, SAA's failure to prepare and finalise financial statement timeously, robbed the public at large of effective oversight over SAA finances and jeopardised SAA's ability to raise funding.

[270] The evidence in this case conclusively demonstrated that Ms Myeni's conduct was delinquent as envisaged in section 162(5)(c) of the Companies Act. Accordingly, this Court must declare Ms Myeni a delinquent director and the Court, as already stated, has no discretion in this regard.[34] This Court only has a discretion in respect of the conditions that may be attached to the order and its duration.[35] It must be stated tht even if this Court had a discretion, this would have been an instance where the exercise of such a discretion would have led to a declaration of delinquency. Section 162(6) of the Companies Act provides that a declaration of delinquency under section 162(5)(c) subsists for a minimum period of seven years or such longer period as determined by the Court.

[33] [2013] 1 All SA 580 (GSJ).
[34] Gihwala at par 140.
[35] Section 162(10) of the Act.

[271] The plaintiff's argued that a lifelong declaration of delinquency is appropriate. In this instance Ms Myeni caused untold harm to SAA and the South African economy by what can only be described as sabotaging, the lucrative Emirates deal and very nearly ruining the Swap Transaction. Although all of SAA's woes can certainly not be attributed to her alone, she surely contributed significantly to the position SAA and the economy finds itself in today. SAA would in all probability have been in a much better position, if not profitable, were it not for Ms Myeni's actions. Her actions during the negotiations of this deal were inexplicable and there exists a reasonable possibility that something sinister was going on behind the scenes. This in my view constitutes sufficient ground for the NPA to consider the evidence presented during the trial and to investigate the circumstances surrounding the Emirates deal and the Airbus Swap Transaction, if they find it appropriate. These investigation if undertaken should include the other Board members who were implied.

[272] Ms Myeni's actions as chairperson of the Board caused SAA immense harm. She was a director gone rogue, she did not have the slightest consideration for her fiduciary duty to SAA. She was not a credible witness, as already stated, she changed her versions, contradicted herself, blamed others and played the victim. Her actions did not constitute mere negligence but were reckless and wilful.

[273] If both an objective and subjective test is applied, one can safely conclude that she did not act as a reasonable director in the light of her vast experience as a director. Ms Myeni failed to give any reasonable explanation for her numerous failures, misrepresentations and actions, this Court cannot but find that she failed abysmally in executing her fiduciary duty. In my view a lifelong delinquency order is appropriate. Ms Myeni is not a fit and proper person to be appointed as a director of any company, let alone a Board member of a SOE.

[274] A lifelong delinquency order still offers the hope of some redemption. It will always remain open to Ms Myeni to apply to the Court after three years from the date of this order for the declaration of delinquency to be suspended in terms of sub-sections 162(11) and (12). This would require her to demonstrate to Court that she has sufficiently remedied and rehabilitated her misconduct.

[275] It was argued on her behalf that the Plaintiffs were obliged to deal with the other causes of action contained in the pleadings. This argument has no merit the question is whether the evidence led justify a finding of delinquency and in my view it undoubtedly does that.

[276] It will not be inappropriate for this Court to take judicial notice of the immense harm that was done to the country and its people in the last years due to the mismanagement, not only of SAA, but also other SOE's and the suffering that it brought and continues to bring to millions of

South Africans. To serve on a Board of an SOE should not be a privilege of the politically connected. Government has, as custodian of the common good, an obligation to ensure that suitably qualified people, with integrity are appointed in these positions. Whoever serves on the Board of an SOE should ultimately be a servant of the people and whoever is appointed as such, has a sacred duty to society and should ensure that state resources are not squandered, or the economy placed at risk. In my view the plaintiffs were correct when they submitted that a higher duty rests on non-executive directors of SOE's, who are appointed by the government of the day as the shareholder. It is a matter of public knowledge that SAA received billions in government guarantees, leaving government liable should SAA default on any of its liabilities. Not only the courts, but also government should hold Board members of SOE's accountable when they fail to execute their duties.

COSTS

[277] The plaintiffs submitted that they are entitled to their costs in these proceedings, on a punitive scale. The Court was referred to **Public Protector v South African Reserve Bank**[36] where the following was stated in relation to a punitive costs order:

> *"[221] ... The punitive costs mechanism exists to counteract reprehensible behaviour on the part of a litigant. As explained by this Court in* Eskom, *the usual costs order on a scale as between party and party is theoretically meant to ensure that the successful party is not left "out of pocket" in*

[36] Public Protector v South African Reserve Bank [2019] ZACC 29; 2019 (9) BCLR 1113 (CC) at par 221 – 223

respect of expenses incurred by them in the litigation. Almost invariably, however, a costs order on a party and party scale will be insufficient to cover all the expenses incurred by the successful party in the litigation. An award of punitive costs on an attorney and client scale may be warranted in circumstances where it would be unfair to expect a party to bear any of the costs occasioned by litigation."

[222] The question whether a party should bear the full brunt of a costs order on an attorney and own client scale must be answered with reference to what would be just and equitable in the circumstances of a particular case. A court is bound to secure a just and fair outcome.

[223] More than 100 years ago, Innes CJ stated the principle that costs on an attorney and client scale are awarded when a court wishes to mark its disapproval of the conduct of a litigant. Since then this principle has been endorsed and applied in a long line of cases and remains applicable. Over the years, courts have awarded costs on an attorney and client scale to mark their disapproval of fraudulent, dishonest or mala fides (bad faith) conduct; vexatious conduct; and conduct that amounts to an abuse of the process of court."

[278] Ms Myeni's dishonesty, breach of fiduciary duty, recklessness and gross negligence have already been addressed in detail above. This constitutes reprehensible conduct and is sufficient reason for a punitive costs order as a mark of this Court's disapproval. Her actions caused SAA and the country immense harm and it was of the utmost importance that she be brought before a Court to answer for her deeds.

[279] Ms Myeni not only proved to be dishonest in her dealings at SAA, but she has also been dishonest with this Court. This dishonesty is demonstrated by her attempts to explain her failure to appear in court at the very beginning of the trial on 7 October 2015.

[280] In her postponement application, Ms Myeni initially claimed to have no money to travel to Court. She stated on affidavit that "*I was … unable to be present in court on the day the matter was set down for hearing as I had no means to come from Richards Bay to Pretoria.*" She further claimed that she was "*unemployed*" and that "*it is not easy for me to travel from KwaZulu- Natal to Gauteng without any funding.*"

[281] In that affidavit, Ms Myeni failed to disclose to this Court that she earned over R4,3 million in directors' remuneration during her time at SAA and an additional R3,45 million from her time as a director on the Mhlathuze Water Board, not to mention her undisclosed earnings from her numerous other directorships over the years. She also failed to disclose that she remains an active director of at least four companies, including her ongoing role as deputy chairperson at Centlec, a Free State parastatal, which paid her at least R274,364.00 in directors' fees in 2018. Nor did she mention that she owns a property in Richard's Bay worth at least R4,2 million. When confronted with this evidence in cross-examination, Ms Myeni made no attempt to deny it.

[282] Instead, Ms Myeni sought to offer yet another explanation for the failure to attend Court. She claimed that it was unfair to expect her to spend her own money on the litigation, in circumstances where she believed that SAA's insurers ought to have paid for her costs. This entirely contradicts her previous pleas of poverty, demonstrating that she perjured herself on affidavit. She admitted that she exercised a

deliberate choice not to come to Court. Such dishonesty and disrespect of this Court's processes is worthy of a punitive costs order.

[283] In addition, Ms Myeni's conduct of this litigation also requires condemnation. Between October and November 2015, she launched no less than four separate interlocutory applications, which in itself is not problematic, but when those applications were dismissed, Ms Myeni waited until the scheduled commencement of this trial on 27 January 2019 to file two separate applications for leave to appeal, long out of time. This conduct was clearly calculated to cause maximum delay and disruption. In fact, it succeeded in prolonging this trial substantially and contributed to the plaintiffs' costs.

[284] Ms Myeni finally elected not to attend trial for the duration of the plaintiffs' evidence, despite this Court's repeated warnings that this would compromise her defence. In these circumstances, justice and equity requires that the plaintiffs be fully indemnified, to the greatest extent possible, for the costs of this litigation.

[285] The following order is made:

a. Ms Myeni is declared a delinquent director in terms of section 162(5) of the Companies Act.

b. This declaration of delinquency is to subsist for the remainder of Ms Myeni's lifetime, subject to the

provisions of sections 162(11) and (12) of the Companies Act.

c. Ms Myeni is directed to pay the costs of this action on an attorney and client scale, including the costs of three counsel.

d. This judgment and the evidence led is referred to the NPA for their consideration and determination of whether an investigation regarding possible criminal conduct should follow.

R G TOLMAY

JUDGE OF THE HIGH COURT

DATE OF HEARING:	**27 JANUARY 2020 –** **28 FEBRUARY 2020**
DATE OF JUDGMENT:	**27 MAY 2020**
ATTORNEY FOR PLAINTIFFS:	**PANDOR ATTORNEYS**
ADVOCATE FOR PLAINTIFFS:	**ADV C STEINBERG et** **ADV C McCONACHIE et** **ADV N KAKAZA**
ATTORNEY FOR DEFENDANT:	**LUGISANI MANTSHA INC**
ADVOCATE FOR DEFENDANT:	**ADV B N BUTHELEZI**

ESKOM

DM3

TO	:	Acting Chairman: Portfolio Committee of Public Enterprise Parliament of the Republic of South Africa, Cape Town Attention: **Hon DZ Rantho, MP** Email: dmocumi@parliament.gov.za
FROM	:	**Ms. Dudu Myeni**
DATE	:	05 March 2018

COPY - SENT ORIGINAL

BY EMAIL

STATEMENT TO THE PORTFOLIO COMMITTEE ON PUBLIC ENTERPRISES

1. PURPOSE

1.1. This document is a response to the "Invitation" letter directed to me from the Portfolio Committee on Public Enterprises (hereinafter to be referred to as the "Portfolio Committee" or "Committee") dated 21 February 2018.

1.2. This document is also a formal submission of my Statement (hereinafter to be referred to as the "Statement") to Portfolio Committee on Public Enterprises in response to the allegations made against me by a former Chairperson of Eskom Board.

2. BRIEF INTRODUCTION AND BACKGROUND

2.1. My inability to appear before the Committee as originally envisaged for 28 February 2018 was communicated to your Committee Secretary through a formal letter, which apparently did not get received by the Committee Secretary. Sending an SMS was because I realized that the email was stuck on the outbox, and it was late, to find any internet outlet opened. I do apologize for sending an SMS to the Committee Secretary.

2.2. The Statement addresses the allegations as per the transcripts and Statement made by former Eskom Chairman, Mr Zola Tsotsi (hereinafter to be referred to as "Mr Tsotsi" or "Tsotsi").

2.3. The Statement will demonstrate that I had, at all material times, conducted myself with an unquestionable integrity and not in a manner that Mr Tsotsi had sought to impugn my dignity through his unfounded allegations.

STATEMENT TO THE PORTFOLIO COMMITTEE ON PUBLIC ENTERPRISE

1. I would like, at the outset, to express my profound gratitude to the Portfolio Committee of Public Enterprises for affording me the opportunity to respond to the allegations made against me. I appreciate this opportunity as it affords me sufficient space to put matters into context in order to clear my name on the allegations by Mr Zola Tsotsi, which allegations, contained in Mr Tsotsi Statement. I will demonstrate in this Statement that Mr Tsotsi's allegations have not been substantiated and that he was reckless and his Statement is a fabrication. I will rely on my memory as I have not received minutes of meetings, or written directives from the Former President, or the list referred to, of Names of Executives handed to Mr Tsotsi by me at the Durban meeting as alleged.

2. My immediate reaction, when I received from your esteemed Office, the Statement filed by Mr Tsotsi as well as the transcripts of his testimony, was that he undertook the task of appearing before your Committee as extemporaneous, without serious reflection on the issues he would ventilate and he did not consider the ramifications of doing so. His Statement is, in my deduction, a fabrication, contempt to the Committee. He was, in his entire appearance reckless, in my view.

3. I wish to firstly place on record, that I take umbrage about the manner in which Mr Tsotsi had chosen to use his appearance in Parliament to make allegations which are untrue and wholly unfounded. I hence wish to express my utmost dismay and disappointment at his utterances.

I submit that the Statement he filed before your Committee is unsubstantiated with a conspicuous omission of objective facts, and without evidence to adduce, holding that his Statement should be declared as injurious, untrue, and vexatious. Nowhere in his Statement is he making reference of any objective evidence to prove his allegations.

His utterances are misleading to the public and indeed one tends to question his motive. The decisions he alleges were taken, per my instruction are too serious, as such, am shocked that he would simply forget his role and responsibilities, as a matured, experienced and seasoned Chairperson of the Board of the largest SOE.

4. Secondly I also want to state categorically to the esteemed Committee that I had at no stage called Mr Tsotsi requesting a meeting, contrary to his futile assertions. His Statement is fatally flawed and is not assisting to provide evidential proof of my request to the meeting in question. I want to put it on record that Mr Tsotsi is the one who was desperate to meet me and not the other way round. The truth is that it was he (Mr Tsotsi) who tried desperately to get a meeting with me using a third party. It is also factually true that it was a result of Mr Tsotsi's insistence that I eventually acceded to his meeting request, which eventually took place in Durban. This meeting was not the first meeting, and this is not mentioned anywhere in his statement. Again the date of the said meeting in Durban per his submission is not accurate. What is really the motive?

5. I further wish to place it on record that former President JG Zuma had at no stage ever instructed me to fire any person whether at SAA or anywhere else, contrary to Mr Tsotsi's nugatory claim that Mr Zuma issued such instructions. That omitted instruction by the former President does not exclude Eskom. At the level of the Former President, one would expect a written directive to the Minister of Chairman of the Board. Also important to state is that I never ever expressed a wish (let alone a demand) to Mr Tsotsi or anyone to dismiss any person from their employment, either at SAA where I was a chairperson of the Board or anywhere else outside of the SAA, including employees – past and present – at Eskom. When Mr Tsotsi made this allegation, he should have provided you with hard evidence to prove that former President issued such an instruction regarding dismissals or suspension of executives at Eskom. Let Mr Tsotsi objectively prove this allegation.

6. The allegation expressed by Mr Tsotsi that I was engaged in a plan or process aimed at causing some executives fired at Eskom is not only untrue, ludicrous but such an allegation is bordered on nothing other than his hubris. I have had no role of any kind at Eskom, as it is a factual position that I neither worked at this SOE nor was I ever a member of its Board. It is thus my submission to the Committee that sense should prevail in the mind of any reasonably thinking person to understand that in my capacity as the then Chairperson of another Board, being the South African Airways, I would not possess any authority to get involved into and/or exert any influence into the affairs of any State Owned Entity, including Eskom.

I believe it should impress on any reasonable person to deduce that my previous role at SAA and the presumption of my role in Eskom in terms of causing some executives to leave, are legally immiscible and incongruous. Why would Mr Tsotsi agree to such instructions? What was being hidden here? Does this mean that Mr Tsotsi became a Chairman of the Board of Eskom without understanding the roles and responsibilities of a Chairman, or at least a Director? Can we simply believe that anyone at his position could simply be instructed, while having no role in an entity such as Eskom? Why did Mr Tsotsi be naïve and get misled? The allegation that I had attempted to interfere in internal processes of Eskom is therefore fatally preposterous and is perhaps made with malicious motive by Mr Tsotsi.

7. The allegation that I gave Mr Tsotsi a *list of names* of Eskom executives which he should dismiss is utterly false. It should thus be inconceivable to believe that a person of the calibre of Mr Zola Tsotsi who is an experienced professional could allow someone to instruct him to fire executives in a company over which he presides as Chairperson. This claim is absurd and thus begs a question as to what in fact Mr Tsotsi is concealing to the Committee. The names mentioned are people I had never met before, except for the then former DG of Public Enterprises who was at Eskom.

8. I maintain that I have no knowledge of the Executives mentioned in the Mr Tsotsi Statement nor would I be privy to any acts of wrongdoings these individuals might have allegedly committed within Eskom.

It would have been easier for me if I had been given minutes and the said list list in question which is alleged to have been compiled by me. I should also mention that the two matters which was worrying Mr. Tsotsi was his ousting by the Board, and the "Load Shedding". In his statement he is conspicuously silent on these two matters.

9. The substantive basis of my meeting with Mr Zola Tsotsi, former Chairperson of Eskom are summarized as follows:-

(a) As I mentioned above, Mr Tsotsi requested to meet me, seeking an advice and guidance around the legal and governance issues at Eskom.

(b) He insisted that he wanted to act fast to remove some executives at Eskom, failing which he said he feared that the board would remove him. However it did not come out clearly why the Board would want to get rid of him. He subsequently resigned, but he did not state the reasons why he resigned.

(c) The position I articulated to Mr Tsotsi was that no Board Chairman could be removed without reasons, if he had not done anything wrong. Secondly, no Chairman of the Board can act alone on such serious matters, which would affect executives or any matter affecting the company. I still maintain that position.

I pointed out to him that Boards and Board Chairpersons should operate within the regulatory framework in terms of company policies that ought to be followed at all times. The board needed to be taken into confidence, and ultimately, has to take a resolution on all matters, within the confines and limitation of the company policy framework. I mentioned to him that decisions of such nature would require sound and solid legal advice.

(d) Mr Tsotsi asked me whether I had a legal adviser in my previous capacity as the SAA Board Chairperson, I told him that my legal advisor would tell him the same thing. At this meeting, there was no legal advisor, and this Statement of Mr Tsotsi does not mention this, by mistake or deliberately. He insisted that I introduce him to my legal advisor which I subsequently did. My advice was further confirmed by the Legal Advisor, and that he had no powers to hire and fire people willy-nilly, and he could not appoint even the legal advisor without the Board approval. At this meeting I did mention to Mr Tsotsi that he has to advise the Minister of what he was planning to do. All this was done genuinely, without knowing that it was perhaps a "set up". Who knows?

(e) I was shocked when i read a Statement before the inquiry where Mr Tsotsi stated that he was summoned by the former Chairperson of SAA and given instructions and that the former President JG Zuma was in the meeting. It's a misleading statement and totally untrue, as I mentioned already. Mr Tsotsi should provide at least the *minutes* of such a meeting where the President was

participating, issuing verbal instructions, and by-passing the Shareholder Minister and the Board, something unheard of.

10. I hereby submit to the Committee by putting it on record that Mr Tsotsi had been apparently facing numerous problems, as alleged, in his previous role as the Chairperson of Eskom. He has deliberately deflected from his problems by using both my name and that of former President to *conceal* his deep seated problems. This raises this pertinent question: Why did Mr Tsotsi resign from Eskom? I submit that the statement given to the Portfolio committee by Mr Tsotsi is inaccurate and misleading to the public.

11. On the internal Eskom matters, I respectfully deny any knowledge on my part, as alleged about Eskom's managerial, financial or operational issues. With the benefit of hindsight, Mr Zola Tsotsi must declare in public why he was worried about load shedding, and why he did not explain to the Committee why he decided to resign his position at Eskom. Why did the board want to remove him?

12. It might help that Mr Tsotsi declares his personal involvement in Eskom's business so that he does not join the chorus of those wishing to implicate some people to cover up their own corruption by hiding behind certain names, like former President Zuma has become obloquy (a badly spoken person) in the modern day South Africa.

13. THE FACTUAL INACCURACIES OF STATEMENT BY MR ZOLA TSOTSI ABOUT MEETING WITH ME

i. First it is factually true that Mr Tsotsi met me, at his request as stated above, in Durban, but not in the presence of my son as he alleges. I met him in the presence of the person who was advising us legally. I introduced Mr Tsotsi to Mr Linell.

ii. Secondly it is factually untrue that I was leading the meeting. I did not outline any purpose of the meeting as alleged by Mr Tsotsi. He had wanted me to introduce him to a legal advisor who happens to be Mr Linell. I had already briefed Mr Linell why we had to meet the Chairperson of Eskom. It turned out that most of the things, points I raised to Mr Tsotsi was correct according to Mr Linell. There were certainly no short cuts especially if you were worried about being removed and also if you had things to hide.

iii. Thirdly the Former President was not part of my meeting with Mr Tsotsi at any point. The President greeted us in the room where we were. The burden of proving that the former President was part of the meeting rests on Mr Tsotsi who should provide the *minutes* or evidence of the Former President's involvement in that meeting. He can also empower me on pleasantries he refers to on the side of the Former President.

iv. Fourthly I need to stress that my being at the Former President's Official Residence in Durban was as per a prior commitment for a meeting on a different matter, which had nothing to do with Eskom or SAA.

v. Furthermore it is not true that I have had a prior knowledge of financial performance and operational matters of ESKOM other than the information Mr Tsotsi voluntarily shared with me, including but not limited to "Load Shedding." The claim by Mr Tsotsi that I spoke about a War Room of ESKOM is totally untrue.

vi. I should further state that the most pressing issue was not about ESKOM but was about Mr Tsotsi himself. Prior to that meeting, he had shared with me his concern that the Board wanted to get rid of him, and that some executives at Eskom should be dismissed. He therefore needed help (of legal nature) urgently.

vii. I need to reiterate that I do not know ESKOM executives, nor did I know any of their acts of alleged wrong doing. I was there to advise him as a colleague at his behest, and hence I introduced him to a legal adviser at that meeting in Durban.

14. CONCLUSION

In concluding I wish to apologize for being unable to appear before the Committee on 28 February.

I would like to assure the Hon Acting Chairperson that I respect the Members of the Portfolio Committee and Parliament. I had, at all material times, conducted myself with an unquestionable integrity and not in a manner that Mr Tsotsi had sought to impugn my dignity through his unfounded allegations.

I hope that this Statement will be welcomed by the esteemed Committee

Ms D Myeni



05 March 2018

DM4

STATEMENT UNDER OATH

I, the undersigned

MTHOKOZISI PIUS DUZE

Do hereby make oath and say that:

1.

I am an adult male person currently employed by Mhlathuze Water as the Chief Executive Officer with its address at Cnr of South Central Arterial and Battery Bank Roads, Alton, Richards Bay, KwaZulu-Natal.

2.

The facts deposed to herein are within my personal knowledge and best belief true and correct unless the context indicates otherwise.

3.

A Forensic investigation was conducted by a firm of attorneys, Mhlanga Incorporated and a report thereof was submitted to me. The report revealed acts of fraud and/or money laundering and/or corruption committed by various individuals and companies against Mhlathuze Water. The amount involved in the alleged crime is **R2 405 413.69.**

2020-04-08

In a summary, the offence was committed in the following manner:

4.1 Mdima Civils CC with registration numbers 2005/011949/23 ("Mdima"), a company with no contract with Mhlathuze Water, issued an invoice for **R2 405 413.69.**

4.2 SSO JV/Vitetype Nsezi JV, a Joint Venture between Stefanutti Stocks (Pty) Ltd (2003/022221/07), Oro Management Services (2000/003744/23) and Vitetype Trading 99 CC (2011/100268/23), was a contractor appointed to do the construction work for Mhlathuze Water in the Nsezi WWTW & Associated Bulk Infrastructure of a Second 20ML Reservoir, project number MW/28/2014.

4.3 SSO/Vitetype Nsezi JV paid the **R2 405 413.69** to Mdima.

4.4 SSO/Vitetype Nsezi JV claimed payment of the monies it paid to Isibonelo from Mhlathuze Water as if it was due to additional work done by them on site, a Variation Order ("VO"). They also added 10% mark-up on their claim;

4.5 Iliso Consulting (Pty) Ltd t/a Nako-Iliso who were the Consulting Engineers supervising SSO/Vitetype Nsezi JV on site on behalf of Mhlathuze Water approved payment of the VO by SSO/Vitetype Nsezi JV as if SSO/vitetype Nsezi JV had done additional work on site to the value of those two amounts plus 10% mark-up;

2020-04-08

4.6 Mr Mboniseni Majola and Mr Sihle Xaba who were employed by Mhlathuze Water as Program and Project Managers respectively authorized payment of the VOs to SSO/Vitetype Nsezi JV;

4.6 Mr Sibusiso Makhanya was the CEO of Mhlathuze Water at the time and he, similarly, authorized the payment of both amounts;

4.6 All the people involved in this crime knew that Isibonelo's invoices were fraudulent because Isibonelo did not do any work to deserve any payment. They also knew that SSO/Vitetype Nsezi JV had done no additional work to claim the money back from Mhathuze Water by way of a VO.

5.

In terms of the Public Finance Management Act 1 of 1999, I am required to report any criminal conduct which is brought to my attention to the Police, hence this statement.

6.

The people and companies implicated in the commission of this crime are the following:

6.1 MR SIBUSISO MAKHANYA, ID NUMBER 710521 5363 086;

6.2 MR MBONISENI MAJOLA, ID NUMBER 750815 5415 081;

6.3 MR SIHLE XABA, ID NUMBER 800802 5515 086

6.4 STEFANUTTI STOCKS (PTY) LTD;

2020-04-08

6.5 ANY OF THE DIRECTORS OF STEFANUTTI STOCKS;

6.6 ORO MANAGEMENT SERVICES;

6.7 ANY OF THE DIRECTORS OF ORO MANAGEMENT SERVICES;

6.8 VITETYPE TRADING 99 CC;

6.9 ANY DIRECTORS/MEMBERS OF VITETYPE TRADING 99 CC;

6.10 NAKO ILISO;

6.11 ANY OF THE DIRECTORS OF NAKO-ILISO;

6.12 MDIMA CIVILS; and

6.13 ANY DIRECTORS/MEMBERS OF MDIMA CIVILS.

7.

I request the police to investigate this matter further and take all steps necessary to bring the perpetrators to book. A copy of the Forensic Report is attached hereto marked **"A"**.

DEPONENT

I hereby certify that the Deponent has acknowledged that he knows and understands the contents of this Affidavit that was duly sworn to and signed at **RICHARDS BAY** before me on this the **8TH** day of **APRIL 2020**, the Regulations contained in Government Notices Nos. R1258 of the 21st July 1972 and R1648 of the 16th August 1977, as amended, having been complied with.

COMMISSIONER OF OATHS

"A"

MHLATHUZE WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: NAKO ILISO; CONTRACTOR: SSO JV VITATYPE; PROJECT NAME: 2ND CIRCULAR 20ML RESERVOIR; AMOUNT: R2 321 013.21

MAY 2019

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

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LEGAL DEPARTMENT
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MHLATHUZE WATER

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE

CONSULTING ENGINEER : NAKO ILISO

PROJECT CONTRACTOR : SSO JV VITATYPE

PROJECT NAME : 2ND CIRCULAR 20 ML RESERVOIRS

AMOUNT : R2 321 013.21

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLANGA INC

MHLATHUZE WATER • AMANZI

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1. DISTRIBUTION LIST

This report is confidential and is to be distributed only to the following persons, unless specific permission is granted by the Chief Executive of Mhlathuze Water.

NO	NAME	INSTITUTION	DESIGNATION	NO OF COPIES
1.	Mr M P Duze	Mhlathuze Water	Chief Executive Officer	1

2. ANNEXURES

The following annexures have been attached and should be read together with this report

ANNEXURE REFERENCE	DETAILS
ANNEXURE 'A'	Letter of appointment for **MDIMA CIVILS** dated 26 March 2013
ANNEXURE 'B'	Letter of appointment for **NAKO-ILISO** dated 11 February 2015
ANNEXURE 'C'	Certificate of Practical Completion dated 12 June 2015
ANNEXURE 'D'	Certificate of Completion dated 24 June 2015
ANNEXURE 'E'	Dialogue of emails between Sihle Xaba, Santosh Soobryan, Muzi Majozi, Mboniseni Majola and **MDIMA CIVILS** dated 27 October 2015 up to 28 October 2015
ANNEXURE 'F'	Itemized tax invoice number 2015/0036 from **MDIMA CIVILS** dated 26 October 2015
ANNEXURE 'G'	Statement of account from **MDIMA CIVILS** to MW dated 26 October 2015

ANNEXURE 'H'	Variation Order number 1 dated 27 October 2015
ANNEXURE 'I'	Payment Certificate number 03, covering letter and attachments dated 28 October 2015
ANNEXURE 'J'	Invoice from **SSO JV VITATYPE** dated 28 October 2015
ANNEXURE 'K'	Final Approval Certificate dated 28 June 2016
ANNEXURE 'L'	Report from **NAKO-ILISO** dated June 2017
ANNEXURE 'M'	Project hierarchy print out dated 11 September 2018
ANNEXURE 'N'	Proof of payment to **MDIMA CIVILS** from **SSO JV VITATYPE**
ANNEXURE 'O'	Tax Invoice number 0041 from Sifezakonke Engineering to **MDIMA CIVILS** dated 10 December 2015
ANNEXURE 'P'	Windeed search result for **SIFEZAKONKE ENGINEERING**
ANNEXURE 'Q'	MW Delegation of Authority Policy dated 20 May 2015

3. KEY PERSONS

NO	NAME	DESIGNATION	ABBREVIATED NAME
1.	SIHLE XABA	FORMER PROJECT MANAGER: MW	MR XABA
2.	MBONISENI MAJOLA	FORMER PROGRAM MANAGER:MW	MR MAJOLA
3.	JOHN WOODBURN	DIRECTOR: STEFANUTTI	MR WOODBURN
4.	DERICK GOODWIN	DIRECTOR: STEFANUTTI	MR GOODWIN
5.	MANI GOVENDER	ENGINEER: NAKO ILISO	GOVENDER
6.	COLINS RAMAN	DIRECTOR: NAKO ILISO	MR RAMAN
7.	SANTOSH SOOBRYAN	ASST ENGINEER: NAKO ILISO	MR SOOBRYAN
8.	SIBONGILE NGINDI	ADMIN	MS NGIDI

		MDIMA CIVILS	
9.	XOLANI SHANGE	DIRECTOR: MDIMA CIVILS	MR X SHANGE
10.	SIBUSISO MAKHANYA	FORMER CEO: MW	MR MAKHANYA
11.	M P DUZE	CEO: MW	MR DUZE

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4. ABBREVIATIONS

FULL NAME	ABREVIATION
ACCOUNTING OFFICER	AO
CHIEF EXECUTIVE OFFICER	CEO
CONSTRUCTION INDUSTRY DEVELOPMENT BOARD	CIDB
DELEGATION OF AUTHORITY POLICY	DOA
GENERAL CONDITIONS OF CONTRACT, 2010, 2ND EDITION	GCC
MHLATHUZE WATER	MW
PUBLIC FINANCE MANGEMENT ACT	PFMA
PREVENTION OF ORGANIZED CRIME ACT	POCA
VARIATION ORDER	VO

MH

5. APPLICABLE LEGISLATION AND INTERPRETATION

5.1 Public Finance Management Act 1 of 1999 (PFMA)

(i) Responsibilities of an Accounting Officer of a Public Entity

5.1.1 Section 83(3) provides that an Official of a Public Entity to whom a power or duty is assigned in terms of section 56 commits an act of Financial Misconduct if that Official willfully or negligently fails to exercise that power or perform that duty.

5.1.2 Section 83(4) provides that Financial Misconduct is a ground for dismissal or suspension of, or other sanction against, a member or person referred to in subsection (2) or (3) despite any other legislation.

5.1.3 Section 86(1) provides that an Accounting Officer is guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding five years if that Accounting Officer willfully or in grossly negligent way fails to comply with a provision of Section 38, 39 or 40.

(ii) Responsibilities of an Official in a Public Entity

5.1.4 Section 57provides that an official in a public entity must ensure that the system of Financial Management and Internal Control established for that public entity is carried out within the area of responsibility of that official.

5.1.5 An official in a Public Entity is further more responsible for the effective, efficient, economical and transparent use of financial and other resources within that official's area of responsibility.

5.1.6 An official in a Public Entity must take effective and appropriate steps to prevent, within that official's area of responsibility, any irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due.

5.1.7 An official in a Public Entity must comply with the provisions of this Act to an extent applicable to that official, including any delegations and instructions in terms of Section 56(3).

5.2 Treasury Regulations Promulgated under PFMA

5.2.1 Clause 8.1.1 of the Treasury Regulations provides that the Accounting Officer of an institution must ensure that internal procedure and internal control measures are in place for payment approval and processing.

5.2.2 Clause 9.1.1 of the Treasury Regulations provides that the Accounting Officer must exercise all reasonable care to prevent and detect unauthorized, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of Financial and Risk Management.

5.3 Prevention of Organised Crime Act No.121 of 1998 ('POCA')

5.3.1 The general money laundering offences are committed when certain acts are performed in respect of the "proceeds of unlawful activities". This phrase is defined in section 1 of POCA as any property or any service, advantage, benefit or reward which was derived, received or retained in connection with or as a result of any unlawful activity carried on by any person. In addition, the definition makes it clear that the proceeds could have been derived, directly

or indirectly, in South Africa or elsewhere, at any time before or after the commencement of POCA and that it includes any property representing such property.

5.3.2 "**Property**" is defined broadly as money or any other movable, immovable, corporeal or incorporeal thing. It also includes any rights, privileges, claims, securities and any interest in, and all proceeds of, such property.

5.3.3 "**Unlawful activity**" is any conduct which constitutes a crime or which contravenes any law irrespective of whether or not such conduct occurred before or after the commencement of POCA and whether it occurred in South Africa or elsewhere.

5.3.4 **POCA creates three main general money laundering offences:**

5.3.4.1 Firstly, a person who knows or ought reasonably to have known that property is or forms part of the proceeds of unlawful activities, commits an offence in terms of section 4 if he enters into any agreement, arrangement or transaction (whether legally enforceable or not) in connection with the

property; or performs any other act in connection with the property, which has the effect or is likely to have the effect:

5.3.4.2 Of concealing or disguising the nature, source, location, disposition or movement of the property or the ownership of the property or any interest in the property; OR

5.3.4.3 Of enabling or assisting any person who committed an offence to avoid prosecution or to remove or diminish any property acquired as a result of an offence.

5.3.4.4 Secondly, a person commits an offence in terms of section 5 if he knows or ought reasonably to have known that another person has obtained the proceeds of unlawful activities and enters into any transaction, agreement or arrangement in terms of which:

5.3.4.5 the retention or control by or on behalf of that other person of the proceeds of unlawful activity is facilitated; or

5.3.4.6 The proceeds are used to make funds available to that person, to acquire property on his behalf, or to benefit him in

any other way. Thirdly, a person who acquires, uses or possesses property and who knows or ought reasonably to have known that it is or forms part of the proceeds of unlawful activities of another person, commits an offence under section 6.

5.3.4.7 The offences under sections 4, 5 and 6 can only be committed by a person who knows or ought reasonably to have known that the property concerned constituted the proceeds of unlawful activities

5.4 Construction Industry Development Board Act No. 32 of 2000 (CIDB Act)

5.4.1 Section 5 of the CIDB Act empowers the CIDB to establish a Code of Conduct for all construction related procurements and all participants involved in the procurement process.

5.4.2 Section 27 of the CIDB Act provides that the Code of Conduct applies to all construction-related procurement and all participants involved in the procurement processes, from the application for registration as a contractor, through to the tender process and the

registration and completion of a project, including participation in the best practice project assessment scheme and the best practice contractor recognition scheme.

5.4.3 Section 28 of the CIDB Act empowers the CIDB to investigate any complaint by any person who is aggrieved by an action or omission in terms of the Code of Conduct.

5.4.4 Section 29 provides that the CIDB can institute a formal enquiry against any party found to have breached its Code after satisfying themselves of the investigation mentioned in section 28.

5.5 Code of Conduct for all Parties Engaged in Construction Procurement (CIDB Code of Conduct)

5.5.1 In terms of the CIDB Code of Conduct promulgated in terms of section 5 of the CIDB Act all parties engaged in construction procurement should in their dealings with each other:

5.5.1.1.1 behave equitably, honestly and transparently;

5.5.1.2 discharge duties and obligations timeously and with integrity;

5.5.1.3 Comply with all applicable legislation and associated regulations, etc.

5.5.2 The Code obliges the Agent (Consultant) to strictly observe the Code of Conduct laid down by the body governing his profession.

5.5.3 The Code provides that the contractor shall:-

5.5.3.1 Undertake the contract with the objective of satisfying the requirements of the employer by observing the spirit, as well as complying with the letter of the contract, in pursuit of this objective; cooperate with all the other parties in the procurement process.

5.5.3.2 Not to engage in unfair or unethical practices in dealings with subcontractors.

5.5.3.3 Not to make spurious claims for additional payment or time.

5.5.3.4 Not to engage in collusive practices that has direct adverse impacts on the cost of the project for the employer.

5.6 National Society of Professional Engineers: Code and Ethics for Engineers.

5.6.1 The code of ethics for engineers prohibits engineers from aiding or abating the unlawful practice of engineering by a person or a firm.

5.6.2 The code further obliges engineers having knowledge of any violation of the code to report same to the appropriate professional bodies and when relevant also to public authorities and cooperate with the proper authorities in furnishing such information or assistance as may be required.

5.6.3 Engineers shall not permit the use of their name or associate in business ventures with any person or firm that they believe is engaged in fraudulent or dishonest enterprise.

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MHLATHUZE WATER

5.7 Delegation of Authority Policy

5.7.1 Clause 7.2 of the Delegations Policy of 20 May 2015 provides that a purchase order variation for operation and capital expenditure can only be signed and or authorized in the following respect:

(i) Above R1m by CEO;

(ii) Less than R1m by Heads of Departments.

5.8 The General Conditions of Contract

5.8.1 **Clause 3.2.1** of the GCC provides that the function of the Employer's Agent is to administer the contract as agent of the employer, in accordance with the provisions of the contract.

5.8.2 **Clause 3.2.3** of the GCC envisages that in the event of the Employer's Agent being required in terms of his appointment by the Employer to obtain the specific approval of the Employer for carrying out any part of his functions or duties, such requirement shall be set out in the Contract Data.

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5.8.3 **Clause1.1.1.8** defines "Contract Data" as a document that sets out the specific data which together with the general conditions of contract collectively describe the risks, liabilities and obligations of the contracting parties and the procedures for the administration of the contract.

5.8.4 **Clause 5.14.3** reads that upon the issue of the Certificate of Practical Completion, the works shall be considered completed, the employer shall be entitled to take occupation of the Works.

5.8.5 **Clause 5.16.1** reads that the works shall not be considered completed in all respects until a Final Approval Certificate has been delivered by the Employer's Agent to the employer and the contractor stating the date on which the Works were completed and defects corrected, all in accordance with the Contract.

MHLATHUZE WATER

6. EXECUTIVE SUMMARY

6.1 Background and Investigation Scope

6.1.1 Mhlathuze Water was presented with qualified audit findings by the office of the auditor general in respect of various transactions for the financial year of 2016/2017.

6.1.2 Amongst the transactions which the office of the Auditor-General made adverse findings against Mhlathuze Water pertained to the **VO NO: 1** for R2 321 013.21 dated 27 October 2015.

6.1.3 Mhlathuze Water appointed Mhlanga Incorporated to conduct an investigation into the source of the Variation Orders that were paid to **SSO JV VITATYPE** by Mhlathuze Water and to establish whether the transaction amounted to irregular, unauthorized fruitless and wasteful expenditure

6.1.4 The following contract numbers formed part of the investigation:

(a) MW/28/2014

(b) MW 000188

6.1.5 We have found that **MDIMA CIVILS** who was not a contractor or sub-contractor under project number MW/28/2014 issued an invoice for R2 321 013.21. The invoice was fraudulent. **MDIMA CIVILS** had not done any work for them to issue an invoice and the project number quoted in their invoice was long completed.

6.1.6 **SSO VETATYPE** paid **MDIMA CIVILS'** invoice on 11 December 2015.

6.1.7 **SSO VETATYPE** claimed this amount from MW as a VO, which VO was approved by **NAKO-ILISO**.

6.1.8 **Mr S Xaba** and **Mr M Majola** signed for the approval of the VO. They both do not have the necessary delegation to do so, hence the irregularity in the payment of the VO.

6.1.9 **MW** paid **SSO VETATYPE** this R2 405 413.69. **Mr Brian Ndaba,** the former Chief Financial Officer authorized the payment to **SSO VETATYPE.**

6.1.10 This payment was therefore, in addition to being unathorised and irregular, also fruitless and wasteful.

6.1.11 We have recommended a wide range of criminal investigation against MW officials who approved the VO and authorised the

payment thereof, **SSO VETATYPE, NAKO-ILISO** and **MDIMA CIVILS** for fraud.

6.1.12 We also recommend civil recovery from all persons and entities mentioned in 6.1.11 above, off-course subject to the provisions of the Prescription Act.

6.1.13 We recommended **SSO VETATYPE** and **MDIMA CIVILS** to be reported to the CIDB for disciplinary charges to be levelled against them

6.1.14 We further recommended **NAKO-ILISO** and any other officils of MW who hold membership to the Engineering Council to be reported as such for disciplinary action to be levelled against them by the Council.

6.1.15 We recommended **MDIMA CIVLS, NAKO-ILICO** and **SSO VETATYPE** to be reported to National Treasuty for blackilisting.

7. OBJECTIVES OF THE INVESTIGATION

7.1 To identify any possible fraud, corruption or any other crime or any unlawful and unethical conduct that may be associated with the commission or any omission in this transaction;

7.2 To establish whether the payment of R2 321 013.21 amounted to irregular, unauthorized, fruitless and wasteful expenditure;

7.3 To establish if Mhlathuze Water received value for money when the VO was approved and paid.

7.4 To ascertain the actual prejudice or potential prejudice that may have been suffered by Mhlathuze Water as a result of its payment of this Variation Order.

7.5 To identify any possible irregularities in the processing, approval and payment of this Variation Order.

7.6 To ascertain if indeed SSO JV VITATYPE performed additional work warranting the Variation Order.

7.7 To identity all persons involved in the approval and payment of the Variation Order.

7.8 To determine weaknesses in the internal systems and controls and in procedure of approving variation orders in Mhlathuze Water.

7.9 To recommend to the CE options of remedial action or consequence management to prevent the recurrence of similar irregularities or breaches of internal systems in approving Variation Orders.

MHLATHUZE WATER

8. PROCEDURES PERFORMED

8.1 We obtained an understanding of the policies and procedures of Mhlathuze Water as well as the relevant legislation applicable to Mhlathuze Water.

8.2 We conducted interviews with the Director and the Assistant Engineer of **NAKO-ILISO.**

8.3 We further made inquiries with the management of **SSO JV VITATYPE** with the intention of holding comprehensive interviews and we requested and obtained proof of payment from **SSO JV VITATYPE** for the invoice from **MDIMA CIVILS.**

8.4 We obtained emails, invoices and version of events on how the Variation Orders arose.

8.5 We obtained and analysed the following documents regarding this matter under investigation;-

(a) Letter of appointment for **MDIMA CIVILS** dated 26/03/15. Annexure A

(b) Letter of appointment for **NAKO-ILISO** dated 11/02/15. Annexure B

(c) Certificate of Practical Completion dated 12/06/15.Annexure C

(d) Certificate of Completion dated 24/06/2015.Annexure D

(e) Dialogue of emails between Sihle Xaba, Santosh Soobryan, Muzi Majozi, Mboniseni Majola and admin@mdimacivils.co.za. The emails are between 27 October 2015 and 28 October 2015.Annexure E

(f) Itemized tax invoice number 2015/0036 from **MDIMA CIVILS** dated 26/10/2015.Annexure F

(g) Statement of Account from MDIMA CIVILS to **SSO JV VITATYPE** dated 26 October 2015.Annexure G

(h) Variation Order number 1 dated 27/10/2015.Annexure H

(i) Payment Certificate number 05, covering letter and attachments dated 28/10/2015.Annexure I

(j) Invoice from **SSO JV VITATYPE** dated 28/10/2015.Annexure J

(k) Final Approval Certificate dated 28/06/16.Annexure K

(l) Report from **NAKO-ILISO** dated June 2017.[Annexure L]

(m) Project Hierarchy- detailed transactions dated 11 September 2018.[Annexure M]

(n) Proof of payment made to **MDIMA CIVILS** by **SSO JV VITATYPE.**[Annexure N]

(o) Tax invoice number 0041 from **SIFEZAKONKE ENGINEERING (PTY) LTD** dated 10/12/2015.[Annexure O]

(p) Windeed search result for **SIFEZAKONKE ENGINEERING (PTY) LTD.**[Annexure P]

(q) Mhlathuze Water's Delegation of Authority Policy dated 20 May 2015.[Annexure Q]

(r) Payments made by Mhlathuze Water to **MDIMA CIVILS** from 01 July 2000 to 30 June 2018.

MHLATHUZE WATER

9. RESTRICTIONS AND LIMITATION

9.1 We draw your attention to the following limitations inherent in this report.

9.1.1 Our report does not constitute a forensic investigation or an audit made in terms of relevant national standards or practices.

9.1.2 The scope of our work was limited to the instruction of establishing the source of Variation Orders, the analysis of invoices as well as all the documents we discovered during the course of the investigation including establishing whether the payment of the variation order amounted to irregular, unauthorized, fruitless and wasteful expenditure.

9.1.3 Mr. Xaba and Mr. Majola are no longer employees of Mhlathuze Water therefore our investigation do not include their versions despite the fact that the instruction to pay the invoice of **MDIMA CIVILS** and **SIFEZAKONKE ENGINEERING (PTY) LTD** had been done with their approval as discernible from the email exchanges.

9.1.4 Our reports contain references to legal positions and legislation. We are assessing the evidence and assimilating the law into the facts as we find them and thus providing a legal opinion as part of our report and the findings thereto.

9.1.5 We were unable to subpoena bank records of **MDIMA CIVILS** and **SIFEZAKONKE ENGINEERING (PTY) LTD** which might have shed light on the persons or entities that may have had a direct or indirect benefit in the payment of **MDIMA CIVILS** and the subsequent approval and payment of the VO to **SSO JV VITATYPE**. The powers to subpoena the relevant information are held by the law enforcement agencies of the Republic.

MHLATHUZE WATER

10. DETAILED FINDINGS AND RECOMMENDATIONS

10.1 **NAKO-ILISO** was appointed on 11 February 2015 to render professional services as Consulting Engineers for the "Design and Construction of 20ML Reservoir at Nsezi" (hereafter referred to as "The Project"). Annexure A

10.2 **SSO JV VITATYPE** was appointed to construct the "Construction of 20Ml Reservoir at Nsezi" (hereafter referred to as "The Contractor") which was project number MW/28/2014 which was not related to project MW000188.

10.3 **MDIMA CIVILS** was appointed on 26 March 2013 by the suspended CEO, Mr. Makhanya. The appointment of **MDIMA CIVILS** was for the assessment of affluent pipes at Grindrod Terminal Site under contract number MW000188. Their appointment was for an amount R4 722 485-08. Annexure B

10.4 Between 07 May 2015 and 17 July 2015 there were payments totaling to R8 811 780-32 made by Mhlathuze Water to **MDIMA CIVILS**. A final payment of R141 906-80 was made on 13 October 2016 as a

second retention release as the contract had reached the defect liability period.

10.5 In accordance with clause 5.14.4 of the GCC, 2010; 2nd edition the consulting engineer certified that the outstanding work listed in the certificate of practical completion dated 12 June 2015 had been duly completed and issued a certificate of completion dated 24 June 2015. The sum-total of this is that as at 24 June 2015 **MDIMA CIVILS** completed the project in accordance with the contract. Annexure C&D

10.6 Tax Invoice No: 2015/0036 for R2 405 413.69 from **MDIMA CIVILS** was presented and addressed to **SSO JV VITATYPE** on 26 October 2015 about 3 months after the Works were completed on project MW000188. Annexure E&F

10.7 **NAKO-ILISO** confirms during interviews held with Mhlanga Incorporated that an instruction came from Mhlathuze Water officials to wit Mr. Xaba and Mr. Majola that funds had been depleted on project MW000188. They requested **NAKO-ILISO** to request **SSO JV VITATYPE** to pay the invoice from MDIMA CIVILS on behalf of Mhlathuze Water.

10.8 It was agreed that on the invoice paid by **SSO JV VITATYPE** to **MDIMA CIVILS** a mark-up of 10% was to be added by **SSO JV VITATYPE** when claiming the amount back from Mhlathuze Water as a VO.

10.9 Mhlathuze Water was presented with a Variation Order for an amount of R2, 321 013.21 dated 27 October 2015 from **SSO JV VITATYPE**. The description of work done on the VO was "**MDIMA CIVILS *VO1***". The amount of R2, 321 013.21 included the mark-up of 10% as initially agreed between Mhlathuze Water and **NAKO-ILISO**. Annexure H

10.10 **NAKO-ILISO** approved the Variation Order. annexure I

10.11 According to the email trail, the invoice was attached to an email from Sibongile Ngidi of **MDIMA CIVILS** dated 27 October 2017 specifically saying "**please find attached invoice for MDIMA CIVILS**". The email was addressed to Sihle Xaba of Mhlathuze Water. Annexure E

10.12 On the 27th October 2015 Sihle Xaba forwarded the invoice to Mr. Govender of **NAKO-ILISO** and specifically requested him to **"please process as discussed under the SSO contract"**. Annexure E

10.13 On 28th October 2015 Mr Govender forwarded the invoice to Mr Soobryan of **NAKO-ILISO** with words ***"FYI".*** Annexure E

10.14 MW paid **SSO JV VITATYPE** for this VO number 1 under payment certificate number three (3). Payment Certificate five (3) included other items but amongst them was the amount for this VO. Annexure I

10.15 According to Mr X hsange **MDIMA CIVILS** paid over the amount received from **SSO JV VETATYPE** to **SIFEZAKONKE ENGINEERING** less VAT though he was unable to furnish us with proof of pauyment he provided us with an invoice from **SIFEZAKONKE ENGINEERING**. Annexure O

MHLATHUZE WATER

11. THE ROLE OF NAKO-ILISO

11.1.1 **NAKO-ILISO** was aware of the reasons why the invoices were sent to **SSO JV VITATYPE** for payment.

11.1.2 It was **NAKO-ILISO** that instructed **SSO JV VITATYPE** to pay the invoices as the Consulting Engineers in the project.

11.1.3 As part of **NAKO-ILISO** obligations towards Mhlathuze Water, they had to monitor the work done by **SSO JV VITATYPE**. They had to ensure that invoices issued by **SSO JV VITATYPE** to Mhlathuze Water or any Variation Orders are for the actual work done or carried out by **SSO JV VITATYPE**.

11.1.4 It is obvious that the invoices from **MDIMA CIVILS** were not for work done on the project. **MDIMA CIVILS** was not a subcontractor in the project warranting any payment from **SSO JV VITATYPE** neither was it a party on project number MW/28/2014 in any capacity.

11.1.5 Variation Orders are exclusively reserved for instances where a contractor has to do additional work which was not catered for in

the original scope of work. This Variation Order was not for additional work done by **SSO JV VITATYPE** therefore should not have been approved by **NAKO-ILISO.**

11.1.6 **NAKO-ILISO** did not confirm or verify that the invoices from **MDIMA CIVILS** were for actual work done for Mhlathuze Water in project MW000188.

11.1.7 The callous conduct of **NAKO-ILISO** is exacerbated by the finding albeit posthumously, that the invoice from **MDIMA CIVILS** was fraudulent as the work on project MW000188 had been completed as far back as on 24 June 2015. No payment was due and payable to **MDIMA CIVILS** on project MW000188 or any project for that matter.

11.1.8 **NAKO-ILISO** say they were requested by Mhlathuze Water to ask **SSO JV VITATYPE** to process payment to **MDIMA CIVILS** who had performed work for MW on a different project and were owed monies by MW.

11.1.9 The reason provided for the instructions was that there was an emergency project. MW's internal emergency procurement processes were not yet completed to enable payment on that

project and as a temporal measure, MW wished to utilize funds allocated to this project to pay **MDIMA CIVILS.**

11.1.10 **NAKO-ILISO** avers that although this was irregular, it was common amongst clients who wish to utilize funding for emergency work to utilize this route.

11.1.11 **NAKO-ILISO's** conduct falls foul of clause 3.2.1 of the General Conditions of Contract .**NAKO-ILISO** as an agent of MW they were enjoined to act within the parameters of the contract. **NAKO-ILISO** was not appointed on project MW000188 and therefore they had no obligation to facilitate payment on works done outside the project they were appointed for.

11.1.12 This however begged a question of why would MW not utilize its emergency procurement processes and utilize a procedure which was inherently unlawful.

11.1.13 Our investigation finds that **NAKO-ILISO's** conduct demonstrates that there was a level of blameworthiness that they were aware of when they initiated the process of transmitting the invoice to **SSO JV VITATYPE.**

11.1.14 Their defense seems to be that they were instructed by the authorized officials of Mhlathuze Water to facilitate the payment of the invoices. Clearly on the face of it, this defense is flawed.

11.1.15 They knew that payment of an invoice in an unrelated contract was illegal and outside the scope of their appointment. They further had recourse in law if at all they were maligned because they had refused that unethical and unlawful instruction from officials of MW.

11.1.16 **NAKO-ILISO** had a responsibility of effectively managing the project and signing off payment certificates. By signing Payment Certificates, **NAKO-ILISO** certified to MW that work claimed by **SSO JV VITATYPE** was done according to specification and is of acceptable standard thus MW can pay.

11.1.17 This responsibility was well known to **NAKO-ILISO** therefore they cannot deny their participation in this crime by alleging ignorance whereas no work certified by them in the VO's and the payment certificates was ever done by **SSO JV VITATYPE.**

11.1.18 We pause to point out that if **NAKO-ILISO** had distanced itself from participation in the payment of the invoice, **SSO JV VITATYPE**

would not have had the necessary safety net to proceed to claim the VO from MW. The conduct of **NAKO-ILISO** threw MW under the bus of irregular, unauthorized, fruitless and wasteful expenditure.

11.1.19 **NAKO-ILISO** effectively enabled the payment of this VO. Without **NAKO-ILISO's** signature **SSO JV VITATYPE** would not have been able to claim the VO and MW would not have paid it.

11.1.20 **NAKO ILISO** would have known at the time **SSO JV VITATYPE** made Variation Order 2 in respect of contract number MW/28/2014 that the Variation Order was a misrepresentation and a crime. The actual work claimed was outside the scope of the contract of work between Mhlathuze Water and **SSO JV VITAYPE.**

11.1.21 **NAKO-ILISO** as Consulting Engineers was supposed to be eyes and ears of Mhlathuze Water. **NAKO-ILISO** was in a position of trust in terms of its relationship with MW. They owed a duty of good faith to MW and they failed in their responsibilities in all facets.

11.1.22 They failed in their responsibilities and participated in the facilitation of a crime and incriminated themselves in the process.

11.2 CONCLUSIONS

11.2.1 A reasonable inference can be drawn from the proven facts that **NAKO-ILISO** colluded with **SSO JV VITATYPE**, Sihle Xaba, Mboniseni Majola as well as **MDIMA CIVILS** to defraud Mhlathuze Water.

11.2.2 The actions of **NAKO-ILISO** were unethical, dishonest and/or alternatively were negligent. As a result of their actions Mhlathuze Water was financially prejudiced.

11.2.3 The actions of **NAKO-ILISO** aided and abated a criminal offence within the ambit of POCA.

11.2.4 **NAKO-ILISO** were given an opportunity to be heard and there was nothing in their version that suggests that they have a defense in law for their actions.

11.2.5 **NAKO-ILISO** says they did not benefit financially from their participation on the transaction however that on its own demonstrates that they were aware that the transaction was illegal from the onset.

11.2.6 The conduct of **NAKO-ILISO** was callous, negligent and dishonest.

COMMISSION OF INQUIRY INTO STATE CAPTURE

11.3 RECOMMENDATIONS

11.3.1 **NAKO-ILISO** should be reported to the National Society of Professional Engineers for violation of the NSPE Code of Ethics for Engineers: Rule of Practice II (1)(e) and (f).

11.3.2 **NAKO-ILISO** should be reported to the CIDB for an investigation under section 28 of the CIDB Act to be instituted and for a formal enquiry contemplated under 29 of the CIDB Act to be launched.

11.3.3 Civil recovery court processes should be instituted against **NAKO-ILISO** for the loss suffered by Mhlathuze Water as a result of **NAKO-ILISO** in respect of the payment of the Variation Order approved by **NAKO-ILISO**.

11.3.4 Criminal charges be laid against **NAKO-ILISO** for fraud and money laundering. The scope of the criminal investigation will be wider in terms of the Criminal Procedure Act compared to the current investigation and therefore other crimes can emerge from this transaction.

11.3.5 **NAKO-ILISO** must be reported to National Treasury to be blacklisted and debarred from doing business with MW in future.

COMMISSION OF INQUIRY INTO STATE CAPTURE

12. THE ROLE OF SSO JV VITATYPE

12.1.1 **SSO JV VITATYPE** was appointed by Mhlathuze Water as a contractor under contract number MW/28/2014. They were responsible for the payment of R2, 321 013.21 (including Vat).

12.1.2 Their defense is that they received instructions from **NAKO-ILISO** to make payment on behalf of Mhlathuze Water.

12.1.3 From the exchange of the emails between **NAKO-ILISO** and Mr. Xaba it is glaringly clear that **SSO JV VITATYPE** was equally aware of what was discussed. **SSO JV VITATYPE** communicated with **NAKO-ILISO**.

12.1.4 **Mr Derick Goodwin,** Director at **SSO JV VITATYPE**, was interviewed by MHLANGA INC telephonically. He acknowledged that they were requested to make payment and claimed the payment as a VO with the agreed mark up of 10%.

12.1.5 They received an invoice from **MDIMA CIVILS** in order to effect payment. They then negotiated a mark-up in respect of the payments with the consulting engineer and agreed on 10%.

12.1.6 Effectively payment was then made on account of the invoices that were submitted to them. **SSO JV VITATYPE** paid R2, 405 413.69 directly to **MDIMA CIVILS's** bank account.Annexure N

12.1.7 The nature of the transaction on closer examination of **SSO JV VITATYPE** version amounted to a loan. This conclusion is reached because **SSO JV VITATYPE** was appointed for the Construction of a second Circular 20Ml reservoir and not to pay for other projects.

12.1.8 **SSO JV VITATYPE** is surely not in the business of giving loans to their clients as they allege they did herein. This version leaves a lot to be desired.

12.1.9 They subsequently claimed repayment of this loan amount by way of a Variation Order. **SSO JV VITATYPE** was well aware of what a Variation Order is and that it is used only if there is an alteration to the scope of works in a construction contract in the form of an addition, substitution or omission from the original scope of works.

12.1.10 Clearly their payment of the invoice presented by **MDIMA CIVILS** could not have been within the ambit of a Variation Order. The actions of **SSO JV VITATYPE** in this regard are questionable and they exhibit an element of knowledge that their actions were *mala fide*.

12.1.11 **SSO JV VITATYPE** failed to do due diligence and find out if the transaction or request made by Mhlathuze Water through **NAKO-ILISO** was allowed in any way by law.

12.1.12 **SSO JV VITATYPE** abandoned all checks and balances because they were aware of the profit they stood to make on this transaction.

12.1.13 There is a clear inference that is inescapable regarding **SSO JV VITATYPE** in that they ought to have known that the transaction was illegal and unlawful, either they chose to play ignorant or they were simply negligent. Either way their actions are criminally and ethically reprehensible.

12.1.14 It is highly improbable that a reputable company like **SSO JV VITATYPE** would pay millions of rand to an account of another

entity and merely rely on the fact that they were instructed by a consulting engineer of a client.

12.1.15 **SSO JV VITATYPE** had a responsibility and a duty of good faith towards Mhlathuze Water. **SSO JV VITATYPE** made no attempt to verify the representations made by **NAKO-ILISO** and its representatives on the reason it ought to pay the invoices.

COMMISSION OF INQUIRY INTO STATE CAPTURE

12.2 CONCLUSIONS

12.2.1 At all material times **SSO JV VITATYPE** ought to have known that it was not responsible for making payments to Mhlathuze Water's suppliers irrespective of the circumstances.

12.2.2 They were aware that the request for payment of the invoices could not be reduced to a Variation Order as it was outside the scope of work they were appointed for in the first place.

12.2.3 **SSO JV VITATYPE** knew that it had a right to refuse to make payments of the invoices but chose not to do so. In fact they justified the payment to **NAKO-ILISO**.

12.2.4 The payment of the fraudulent invoices was in furtherance of a crime.

12.2.5 **SSO JV VITATYPE** further committed fraud when it claimed work done by way of a Variation Order whereas the payment was to recover a loan they had unlawfully advanced.

COMMISSION OF INQUIRY INTO STATE CAPTURE

12.2.6 The letter of appointment that **SSO JV VITATYPE** signed as an indication of acceptance of such an appointment emerged from the office of the CEO. It is peculiar that no verification was made to the CEO when the request for payment of the fraudulent invoices is made.

12.2.7 It is an inescapable conclusion that all the signs were there that what was asked of **SSO JV VITATYPE** was improper and unlawful but **SSO JV VITATYPE** decided to ignore the signs. They in fact decided to actively participate in this crime with full knowledge that they were committing a crime.

12.2.8 The reason that **SSO JV VITATYPE** ignored all possible signs in the fraudulent payment it effected on MDIMA CIVILS is because they stood to profit to the prejudice of Mhlathuze Water.

12.3 RECOMMENDATIONS

12.3.1 **SSO JV VITATYPE** should be reported to the CIDB for an investigation under section 28 of the CIDB Act to be instituted and for a formal enquiry contemplated under 29 of the CIDB Act to be launched.

12.3.2 Civil recovery court processes should be instituted against **SSO JV VITATYPE** for the loss suffered by Mhlathuze Water as a result the payment of the Variation Orders which were claimed by **SSO JV VITATYPE.**

12.3.3 Criminal charges must be laid against **SSO JV VITATYPE** for fraud and money laundering. The scope of the criminal investigation will be wider in terms of the Criminal Procedure Act compared to the current investigation and therefore other crimes can emerge from this transaction.

12.3.4 **SSO JV VITATYPE** must be reported to National Treasury to be blacklisted and debarred from doing business with MW in future.

MHLATHUZE WATER

12.4 THE ROLE OF SIHLE XABA AND MBONISENI MAJOLA

12.4.1 The invoice from **MDIMA CIVILS** was in respect of contract reference numbers MW000188. We have established through our investigation that the work on project MW000188 was completed in June 2015 therefore no work could have been done by **MDIMA CIVILS** in January 2016 when they sent the invoice in question.

12.4.2 According to our investigation there was no work done by **MDIMA CIVILS** for MW in the construction of second circular 20Ml reservoir.

12.4.3 Mr Xaba was the person who interacted with **NAKO-ILISO** regarding the extraordinary payment of the invoice.

12.4.4 In most communications Mr Xaba had with **NAKO-ILISO** via emails Mr Majola was kept abreast of what was happening.

12.4.5 Mr Majola as a Programs Manager and Mr Xaba as a Project Manager at the time would have known that **MDIMA CIVILS** had not rendered any work for Mhlathuze Water and would have been aware of the fraudulent nature of this invoice.

12.4.6 At the commencement of this investigation, Mr. Xaba and Mr. Majola were no longer employees of Mhlathuze Water.

12.4.7 We were unable to interview both Mr Majola and Mr S Xaba owing to the fact that they are both out of employment at Mhlathuze Water.

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER

12.5 CONCLUSIONS

12.5.1 Given that it is evident that the invoice was fraudulent Mr Xaba and Mr. Majola have a criminal case to answer on what basis did they recommend and approve payment of the fraudulent invoice when they were aware at the time that the invoice was fraudulent and that no actual work had been done by **MDIMA CIVILS** on behalf of Mhlathuze Water.

12.5.2 Both Mr Xaba and Mr Majola had no legal basis and/or authority to solicit payment of the invoice from third parties on behalf of Mhlathuze Water.

12.5.3 The Delegations of Authority Policy provides that a Variation Order exceeding an amount of R1m should be dealt with by the CEO and if it is less than R1m it must be delegated to the respective Head of Department.

12.5.4 Mr Xaba and Mr Majola were neither CEOs nor Heads of Departments at the relevant times and therefore had no authority to approve the VO.

12.5.5 An inference can be drawn from the proven facts that both Xaba and Majola ought to have been aware that the delegation to sign and approve the VO in terms of the DOA policy rested with the CEO.

12.5.6 Mr. Majola and Mr Xaba's conduct is criminal in nature as evidence suggests that at all material times they knew that the invoices were not for work done for Mhlathuze Water and were thus fraudulent.

MHLATHUZE WATER

12.6 RECOMMENDATIONS

12.6.1 Mr Xaba and Mr Majola are no longer employed by Mhlathuze Water therefore it would be impossible to subject them to an internal disciplinary hearing.

12.6.2 We established that both Xaba and Majola are qualified engineers and may be members of the Engineers profession. Their conduct can be reported to their professional body to an extent that they are members of such bodies.

12.6.3 Criminal charges of fraud and money laundering should be laid against Mr Xaba and Mr Majola with the SAPS.

12.6.4 Civil recovery Court processes for the loss suffered by Mhlathuze Water as a result of the fraudulent actions committed by S Xaba and Mr Majola must be instituted.

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER

12.7 THE ROLE OF MDIMA CIVILS

12.7.1 We have established that **MDIMA CIVILS** was appointed as contractors in project MW000188. The appointment was for an amount of R4 722 485-08.[Annexure B]

12.7.2 Ultimately the payments received by **MDIMA CIVILS** went up to an amount of R8 811 780-32.[Annexure M]

12.7.3 Our focus however was not on the amounts paid to **MDIMA CIVILS** in excess of their appointment letter unde contract number MW000188. This may require a separate investigation which we highly recommend in view of the fact that **MDIMA CIVILS** is does not shy away from committing fraud. It is highly likely that the excessive payments in contract MW000188 are a product of fraud, hence we recommend an investigation of those payments.

12.7.4 **MDIMA CIVILS** was issued with the certificate of completion on 24 June 2015; this confirmed that the project was completed. [Annexure D]

12.7.5 **MDIMA CIVILS** submitted invoice number 205/0036 dated 26 October 2015 for work done under project number MW000188

despite the project having been certified completed on 24 June 2015. The invoice was for an amount of R2 401 413.69. Annexure F

12.7.6 The investigation currently reveals that the invoice submitted by **MDIMA CIVILS** was fraudulent. This conclusion is reached on the basis that the work had been completed 3 months prior to the issuing of the invoice.

12.7.7 The fraud commenced when the invoice was issued by **MDIMA CIVILS** when they knew that no work had been done by them on behalf of MW under project MW/28/2014. Their conduct is outright criminal.

12.7.8 Since this is not a criminal investigation our findings in respect of **MDIMA CIVILS** are very limited. However, the law enforcement agencies have powers to issue subpoenas in terms of section 205 of the Criminal Procedure Act 77 of 1977 which would assist in obtaining financial records of the said company including the payments of the invoice received from **SSO JV VITATYPE**.

12.7.9 A criminal investigation may reveal the persons who may have been paid by **MDIMA CIVILS**.

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER

12.8 RECOMMENDATIONS

12.8.1 A criminal investigation must be instituted as it may assist in terms of a section 205 of the Criminal Procedure Act in the subpoena of the bank records of **MDIMA CIVILS.**

12.8.2 Bank records will provide information not just about the person whose records have been received but also about their sources of funds (**MDIMA CIVILS**), the people and places to which they forward funds and the identity of their directors.

12.8.3 A forensic investigation is recommended in respect of Contract number MW000188 to understand the causes of payments made to **MDIMA CIVILS** in excess of their appointment amount.

12.8.4 Civil recovery court processes must be instituted against **MDIMA CIVILS** to recover the amount paid to it by **SSO JV VITATYPE**.

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER BOARD

13. THE ROLE OF SIFEZAKONKE ENGINEERING (PTY) LTD

13.1 Though we have no reason not to believe that **MDIMA CIVILS** paid over to **SIFEZAKONKE ENGINEERING** as they claim, the lack of proof makes our finding inconclusive.

13.2 The matter is exarcabted by the fact that the invoice from **SIFEZAKONKE** has no reference to MW nor to any project of MW. It is a plain invoice addressed to **MDIMA CIVILS** for " work as per agreement ". Annexure O

13.3 For all we know **MDIMA CIVILS** may be settling its debts owed to **SIFEZAKONKE.**

13.4 Directors of **SIFEZAKONKE** as per the winded search Annexure P do not resemble any of the employees of MW as we know them however this may require a further investigation to establish a connection between **SIFEZAKONKE** and employees of MW in light of the fact that the instruction to pay **SIFEZAKONKE** allegedly came from MW employees.

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER

13.5 RECOMMENDATIONS

13.5.1 A criminal investigation must be instituted as it may assist in terms of a section 205 of the Criminal Procedure Act in the subpoena of the bank records of **SIFEZAKONKE**

13.5.2 Bank records will provide information not just about the person whose records have been received but also about their sources of funds (**SIFEZAKONKE**), the people and places to which they forward funds and the identity of their directors.

COMMISSION OF INQUIRY INTO STATE CAPTURE

14 THE ROLE OF SIBUSISO MAKHANYA

14.1 Mr. Mkhanya was the Chief Executive Officer of Mhlathuze Water at the time the invoice and the VO were recommended and approved for payment by Mr. S Xaba and Mr Majola respectively.

14.2 Mr Makhanya as CEO at the time was the Accounting Officer and accordingly he had to ensure that there were effective, efficient and transparent financial systems and controls.

14.3 Mr. Makhanya ought to have taken effective and appropriate steps to prevent unauthorized, irregular, fruitless and wasteful expenditure. These steps start from preventing the unlawful recommendation and approval for payment of the actual invoice and extend to the actual payment of the VO which was not signed by the Engineers and not signed by the CEO, yet it was paid.

14.4 The mere fact that employees of MW were able to present fraudulent invoices and solicit unlawful payments clearly demonstrates that there were no effective and efficient systems and controls in place in MW.

14.5 The consequences of Mr. Makhanya's failure to put systems in place resulted to Mhlathuze Water being open to financial risk and loss.

14.6 The issue is exacerbated by the fact that the Delegations of Authority of Mhlathuze Water directed unequivocally that any VO involving an amount exceeding One Million Rand was to be approved ONLY by the CEO.

14.7 The VO from **SSO JV VITATYPE** exceeded the One Million Rand threshold, was not signed by the CEO but was successfully paid.

14.8 The CEO operates strategically and as such there are expectations of his leadership and knowledge which places a high premium on his skill and care. It is on that basis that the PFMA operates on a strict liability when a CEO has abdicated his responsibilities in a manner similar to what Mr. Makhanya has done.

14.9 A response to the effect that Mr. Makhanya was not aware of the transaction will still fall foul of section 38 of the PFMA and its Regulations.

14.10 Mr Makhanya was recently dismissed on account of various allegations of misconduct and hence we were unable to interview him and get his version as to whether he knows anything regarding the transaction under investigation.

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER

14.11 RECOMMENDATIONS

14.11.1 A criminal investigation must be initiated against Mr Makhanya to establish the extent of his involvement in the transaction under investigation. The scope of the criminal investigation will be wider in that it will be able to establish if corruption, racketeering and money laundering elements were present as contemplated in POCA.

14.11.2 He should be charged for acts of financial misconduct, and/or gross negligence and/or gross dereliction of duty.

14.11.3 Mr. Makhanya should also be subjected to civil recovery court process for the loss suffered by Mhlathuze Water jointly and severally with all the other active participants in this fraudulent transaction, with one paying the others being absolved.

COMMISSION OF INQUIRY INTO STATE CAPTURE

15. CONCLUSIONS

15.1.1 We were able to establish that **SSO JV VITATYPE** had no obligation to pay any service provider of MW irrespective of the circumstances.

15.1.2 **SSO JV VITATYPE** did not do any work which may be equated to a Variation Order as contemplated in the GCC, which works would have qualified as a variation order. It was therefore unlawful for **SSO JV VITATYPE** to claim the payment to **MDIMA CIVILS** via a VO to begin with.

15.1.3 **MDIMA CIVILS** submitted an inherently fraudulent invoice to **SSO JV VITATYPE** to the prejudice of MW who ultimately paid a VO with a mark-up of 10% on the fraudulent invoice.

15.1.4 Mhlathuze Water did not receive any value for money and the entire transaction amount to irregular, unauthorized, fruitless and wasteful expenditure.

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: NAKO ILISO; CONTRACTOR: SSO JV VITATYPE; PROJECT NAME: 2ND CIRCULAR 20ML RESERVOIR; AMOUNT: R2 321 013.21

ANNEXURE A

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

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Tuesday 26 of Mar 2013, Mhlathuze Water

MHLATHUZE WATER • AMANZI

Enquiries/Navrae:	*Sibusiso Makhanya*
e-mail address/e-pos adres:	*smakhanya@mhlathuze.co.za*
Our reference/Ons verwysing:	*Letter of Appointment: MW000188*
Your reference/U verwysing:	*MW000188*

26 March 2013

Mdima Civils
44 Churston Road
COWIES HILL
3610

Fax/Email: 086 – 529 0045

Attention: Ms N.P. Shange

Dear Madam

MW000188: LETTER OF APPOINTMENT FOR THE ASSESSMENT OF EFFLUENT PIPES AT GRINDROD TERMINAL SITE: CONSTRUCTION OF DN500 GRP PIPELINE AND CULVERTS ON ROAD CROSSING AT GRINDROND TERMINAL

This letter serves as a notice of your appointment for the Assessment of Effluent Pipes at Grindrod Terminal Site: Construction of DN500 GRP Pipeline and Culverts on Road Crossing at Grindrod Terminal Site for an amount of **R4 722 485.08 including VAT.**

For the commencement dates of this appointment kindly liaise with Mr Sihle Xaba: Project Manager on contact number 035-902 1053 or e-mail: sxaba@mhlathuze.co.za.

The Standard contract agreement will be forwarded to you for your signature. This letter forms part of the conditions of the agreement.

Please note that this appointment does not bind Mhlathuze Water in any way to appointing you or your firm for any further phases or stages that may be identified as the result of this appointment.

Yours faithfully,

S. Makhanya

Mr Sibusiso Makhanya
Acting Chief Executive Officer

26/3/13
Date

PRIVATE BAG / PRIVAATSAK X1047, RICHARDS BAY / RICHARDSBAAI 3900, TEL: +27(035) 902 1000 FAX: +27(035) 902 1105

COMMISSION OF INQUIRY INTO STATE CAPTURE

Acceptance of the appointment for contract MW000188 by:

NGOBILE SHANGE
Name and surname: On behalf of Mdima Civils

Signature

26/03/2013
Date

Rejection of the appointment for contract MW000188 by:

Name and surname: On behalf of Mdima Civils

Signature

Date

Company Stamp:

Cc: Mr Sihle Xaba
Project Manager

Cc: Ms Zakithi Magubane
SCM Manager

Cc: Mr Mboniseni Majola
Programme Manager

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: NAKO ILISO; CONTRACTOR: SSO JV VITATYPE; PROJECT NAME: 2ND CIRCULAR 20ML RESERVOIR; AMOUNT: R2 321 013.21

ANNEXURE B

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e-mail address/e-pos adres: zmaqubane@mhlathuze.co.za
Our reference/Ons verwysing: Letter of Appointment
Your reference/U verwysing: Professional services for design and construction of 20Ml, Reservoir

MHLATHUZE WATER

11 February 2015

Ilso Consulting
P.O Box 686
GOLLETS
3603

Dear Sir

Fax/e-mail: fuzile@ilso.com

LETTER OF APPOINTMENT – PROFESSIONAL SERVICES RFP FOR DESIGN AND CONSTRUCTION OF 20ML RESERVOIR AT NSELI WTW

Mhlathuze Water hereby appoints you for professional services RFP for Design and Construction of 20ML Reservoir at Nseli WTW; for the amount of **1 767 000.00 including VAT** for the following stages:

1. Professional fees : R 1 564 805.00
2. Construction Monitoring : R 113 845.00
3. Project close out : R 88 350.00

This appointment is subject to Mr Jaco Louw being the Project Leader to review and approve all professional work.

The total professional fees payable will be adjusted upward or downwards, applying the actual cost of construction as per ECSA Guidelines. 2.73% will be applicable as per the proposal.

For the commencement dates of this appointment kindly liaise with the Planning Engineer Miss Zama Zuma on contact number 035-902 1086 or email: zzuma@mhlathuze.co.za

On acceptance of this appointment you will be requested to sign the Professional Services Agreement. This letter forms part of the conditions of the agreement.

Please note that this appointment does not bind Mhlathuze Water in any way to appointing you or your firm for any further phases or stages that may be identified as a result of this appointment.

Yours faithfully,

A.S. Makhanya

Mr A.S Makhanya
Chief Executive Officer

11/2/15
Date

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: NAKO ILISO; CONTRACTOR: SSO JV VITATYPE; PROJECT NAME: 2ND CIRCULAR 20ML RESERVOIR; AMOUNT: R2 321 013.21

ANNEXURE C

Prepared by

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CERTIFICATE OF PRACTICAL COMPLETION

IP150_B1

GIBB ENGINEERING & ARCHITECTURE

EMPLOYER: MHLATHUZE WATER

Contract No. MW000188: Assessment of Existing Effluent Pipes at Grindrod Terminal Site – Replacement of 740m Long B-Line (Phase 1a)

CONTRACTOR: MDIMA CIVILS

In terms of Clause 5.14.2 of the General Conditions of Contract 2010 it is hereby certified that the written list of works required to justify the issue of this Certificate of Practical Completion have been completed to the satisfaction of the Engineer.

The following items of outstanding work must be completed to justify the issue of the Certificate of Completion.

- Backfill on the eroded sections along the new pipeline route and next to railway line.
- Clearing of site after completion.

NZUZO BUTHELEZI	
NAME OF ENGINEER	SIGNATURE OF ENGINEER
12 JUNE 2015	
DATE	

COMMISSION OF INQUIRY INTO STATE CAPTURE

CERTIFICATE OF PRACTICAL COMPLETION

IP150_B1

GIBB
ENGINEERING & ARCHITECTURE

EMPLOYER: MHLATHUZE WATER

CONTRACT No. MW000188: ASSESSMENT OF EXISTING EFFLUENT PIPES AT GRINDROD TERMINAL SITE

CONTRACTOR: MDIMA CIVILS

In terms of Clause 5.14.2 of the General Conditions of Contract 2010 it is hereby certified that the written list of works required to justify the issue of this Certificate of Practical Completion have been completed to the satisfaction of the Engineer.

The following items of outstanding work must be completed to justify the issue of the Certificate of Completion.

- Clearing Stormwater Inlets next to Grindrod entrance.
- Removal of construction equipment.
- Clearing of site after completion.

NZUZO BUTHELEZI	
NAME OF ENGINEER	SIGNATURE OF ENGINEER
06 MAY 2015	
DATE	

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: NAKO ILISO; CONTRACTOR: SSO JV VITATYPE; PROJECT NAME: 2ND CIRCULAR 20ML RESERVOIR; AMOUNT: R2 321 013.21

ANNEXURE D

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

1003B Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
T (031) 305 7537 F (031) 305 7538
admin@mhlangainc.co.za

COMMISSION OF INQUIRY INTO STATE CAPTURE

CERTIFICATE OF COMPLETION

IP150_B2

EMPLOYER: MHLATHUZE WATER

Contract No. MW000188: Assessment of Existing Effluent Pipes at Grindrod Terminal Site – Replacement of 740m Long B-Line (Phase 1a)

CONTRACTOR: MDIMA CIVILS

In accordance with Clause 5.14.4 of the General Conditions of Contract 2010 we hereby certify that the outstanding work listed in the Certificate of Practical Completion dated **12 June 2015** has been duly completed.

The abovementioned Works are deemed complete in conformity with the provisions of the Contract, except for any defects not yet discovered.

The Defects Liability Period shall be held to commence on the date of this Certificate of Completion.

NZUZO BUTHELEZI	
NAME OF ENGINEER	SIGNATURE OF ENGINEER
24 JUNE 2015	
DATE	

CERTIFICATE OF COMPLETION

IP150_B2

EMPLOYER: MHLATHUZE WATER

CONTRACT No. MW000188: ASSESSMENT OF EXISTING EFFLUENT PIPES AT GRINDROD TERMINAL SITE

CONTRACTOR: MDIMA CIVILS

In accordance with Clause 5.14.4 of the General Conditions of Contract 2010 we hereby certify that the outstanding work listed in the Certificate of Practical Completion dated **06 May 2015** has been duly completed.

The abovementioned Works are deemed complete in conformity with the provisions of the Contract, except for any defects not yet discovered.

The Defects Liability Period shall be held to commence on the date of this Certificate of Completion.

NZUZO BUTHELEZI	
NAME OF ENGINEER	SIGNATURE OF ENGINEER
20 MAY 2015	
DATE	

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: NAKO ILISO; CONTRACTOR: SSO JV VITATYPE; PROJECT NAME: 2ND CIRCULAR 20ML RESERVOIR; AMOUNT: R2 321 013.21

ANNEXURE E

Prepared by

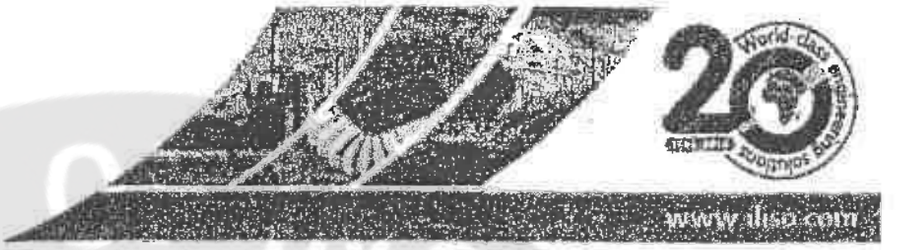
MHLANGA INC.
Attorneys & Conveyancers
1003B Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
T (031) 305 7537 F (031) 305 7538
admin@mhlangainc.co.za

Santosh Soobryan

From: Mani Govender <mani@iliso.com>
Sent: 28 October 2015 08:45 AM
To: Santosh Soobryan
Subject: FW: Mdima Civils Invoice
Attachments: Mdima Civils Invoice.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

ILISO consulting
PEOPLE • INTEGRITY • EXCELLENCE
Subsidiary of NAKO Group



Environmental Management | Industrial and Mining | Infrastructure | Management Services | Structures | Transportation

FYI

Mani Govender Pr Eng
Regional Head – Structures, Eastern Region

ILISO Building, Derby Downs Office Park, 11 Derby Place, Westville, Durban, 3630
P.O. Box 686, Gillitts, 3603
Cell: +27 (0)82 325 3144 | Tel: +27 (0) 31 266 2600 | Fax: +27 (0) 31 266 2616 | Email: mani@iliso.com
Level 2 BBBEE contributor | 80% Black Owned and Managed | 9001:2008 ISO Certified

From: Sihle Xaba [mailto:SXaba@mhlathuze.co.za]
Sent: 27 October 2015 03:52 PM
To: Mani Govender (mani@iliso.com) <mani@iliso.com>
Cc: Mbonisemi Majola <MMajola@mhlathuze.co.za>; Althaaf Ibrahim (althaaf@iliso.com) <althaaf@iliso.com>
Subject: FW: Mdima Civils Invoice

Dear Mani,

Please find attached and process as discussed under SSO contract.

Regards,

SIHLE XABA | PROJECT MANAGER | MHLATHUZE WATER
Cnr of South Central Arterial and Battery Bank, Alton, Richards Bay, 3900 | P/Bag X1047, Richards Bay, 3900
☎Office: +27 35 902 1053 | ☎Fax: +27 35 902 1109 | ✉ e-mail: SXaba@mhlathuze.co.za
Mobile: +27 84 210 1781
www.mhlathuze.co.za

From: Mdima Civils Admin [mailto:admin@mdimacivils.co.za]
Sent: 27 October 2015 01:02 PM
To: Sihle Xaba
Subject: Mdima Civils Invoice

Good-day,

Please find attached invoice for Mdima Civils.

Kind regards,

SIBONGILE NGIDI | ADMIN | MDIMA CIVILS
44 Churston Road, Cowies Hill, 3610
☎Office: +27 31 701 0074 | ☎Fax: +27 86 529 0045 | ☎Cell: +27 73 7842524 |
✉ e-mail: admin@mdimacivils.co.za
www.mdimacivils.co.za

This e-mail and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this e-mail in error please notify the originator of the message. This footer also confirms that this e-mail message has been scanned for the presence of computer viruses. Any views expressed in this message are those of the individual sender, except where the sender specifies and with authority, states them to be the views of Mhlathuze Water. Scanning of this message and addition of this footer is performed by Microsoft ForeFront Security for Exchange . "Please note that for purposes of the Electronic Communications and Transactions Act, NO employees of Mhlathuze Water are authorised to enter into agreements by way of electronic mail or to sign agreements utilising electronic signatures."

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: NAKO ILISO; CONTRACTOR: SSO JV VITATYPE; PROJECT NAME: 2ND CIRCULAR 20ML RESERVOIR; AMOUNT: R2 321 013.21

ANNEXURE F

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

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T (031) 305 7537 F (031) 305 7538
admin@mhlanga-inc.co.za

COMMISSION OF INQUIRY INTO STATE CAPTURE

Mdima Civils

Reg No: 2006/011949/23

Cell: 072 083 5175
Fax: 086 529 0045
Email: xolani@mdimacivils.co.za

44 Chunston Road
Cowies Hill
Pinetown
3610

Highflats Branch
Box 329
3395

VAT No: 4420220537

TAX INVOICE NO. 2015/0026

TO: Mhlathuze Water-Amanzi
P O BOX 1265
RICHARDS BAY
3900
VAT No: 4230103352

Date : 26-October-2015

Tel: (035) 902 1000 Fax: (035) 902 1111

Item	Description	Rate	Qty	Amount
1.	Work Completed to date	R 2 110 012,01	1	R 2 110 012,01
	Replacement of 740m Long B-Line (Phase 1A)			
	MW000188			
			Sub-Total	R 2 110 012,01
			Vat	R 295 401,68
			Total	R 2 405 413,69

Signed:

Mdima Civils Banking Details:

VAT No.:	4420220537
Account No:	1339529424
Bank :	Nedbank
Branch code:	198765

COMMISSION OF INQUIRY INTO STATE CAPTURE

Mdlmo Civils

Reg No: 2006/011949/23
VAT No: 4420220537

Cell: 072 083 5176
Fax: 086 629 0045
Email: xolani@mdlmacivils.co.za

44 Churston Road
Conifer Hill
Pinetown
3610

STATEMENT OF ACCOUNTS

Date : 28 October 2015

ATTENTION: ACCOUNTS DEPARTMENT

Customer: Mhlathuze Water
P.O. Box 1264
Richards Bay
3900
Tel: (035) 902 1000
Fax: (035) 902 1109
VAT No: 4230103352

Delivery Address: Mhlathuze Water
P.O. Box 1264
Richards Bay
3900
Tel: (035) 902 1000
Fax: (035) 902 1109
VAT No: 4230103352

Date	Reference	Amount
26/10/2015	Invoice No: 2015/0026	R 2 405 413,69

90 days	60 days	30 days	Current
			R 2 405 413,69

Bank details	
VAT No.:	4420220537
Account No:	1339529424
Bank :	Nedbank
Branch:	Pinetown
Branch code:	198765

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: NAKO ILISO; CONTRACTOR: SSO JV VITATYPE; PROJECT NAME: 2ND CIRCULAR 20ML RESERVOIR; AMOUNT: R2 321 013.21

ANNEXURE G

Prepared by

MHLANGA INC
Attorneys & Conveyancers
1003B Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
T (031) 305 7537 F (031) 305 7536
admin@mhlanga.co.za

Mdima Civils

Reg No: 2006/011949/23
VAT No: 4420220537

Cell: 072 083 5173
Fax: 086 529 0046
Email: kolani@mdimacivils.co.za

44 Churston Road
Cowies Hill
Pinetown
3610

STATEMENT OF ACCOUNTS

Date : 26 October 2015

ATTENTION: ACCOUNTS DEPARTMENT

Customer: Mhlathuze Water
P.O. Box 1264
Richards Bay
3300
Tel: (035) 902 1000
Fax: (035) 902 1109
VAT No: 4230103352

Delivery Address: Mhlathuze Water
P.O. Box 1264
Richards Bay
3300
Tel: (035) 902 1000
Fax: (035) 902 1109
VAT No: 4230103352

Date	Reference	Amount
26/10/2015	Invoice No: 2015/0026	R 2 405 413,89

90 days	60 days	30 days	Current
			R 2 405 413,89

Bank details	
VAT No.:	4420220537
Account No:	1339529424
Bank :	Nedbank
Branch:	Pinetown
Branch code:	198765

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: NAKO ILISO; CONTRACTOR: SSO JV VITATYPE; PROJECT NAME: 2ND CIRCULAR 20ML RESERVOIR; AMOUNT: R2 321 013.21

ANNEXURE H

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

10038 Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
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admin@mhlanginc.co.za

(57)

MHLATHUZE WATER

AUTHORISATION OF VARIATION / EXTRA WORKS

No. 1 VO or EWO ? VO Date : 27 October 2016

CONTRACT	MW/28/2014	Construction of a second circular 20ML Reservoir	
CONSULTING ENGINEER		NAKO ILISO	
CONTRACTOR		SSO JV VITAYTYPE	
APPROVED TENDER SUM	GROSS AMOUNT OF TENDER		R 41 022 868,16
	CONTINGENCIES	10%	R 4 102 268,82
	CONSTRUCTION VALUE	(A)	R 45 125 177,00
	ESCALATION	8%	R 3 610 014,16
	SUB TOTAL	(B)	R 48 735 191,16
	VAT	15%	R 6 822 926,76
	TOTAL CONTRACT SUM	(C)	R 55 558 117,92

ENGINEER'S ESTIMATE AS AT: 27 October 2016	ESTIMATED FINAL VALUE PRIOR TO THIS VO / EWO	(D)	R 41 022 868,16
	CONTINGENCIES		R 4 102 268,82
	ESCALATION (ESTIMATE ONLY)		R 3 610 014,16
	SUB TOTAL	(E)	R 48 735 191,16
	VAT		R 6 822 926,76
	TOTAL ESTIMATED FINAL VALUE PRIOR TO THIS VO / EWO	(F)	R 55 558 117,92

SURPLUS CONSTRUCTION FUNDS INCL VAT AVAILABLE PRIOR TO THIS VO / EWO (C) (H) R 0,00

Description and / or reason for the work required under this works order

Mdima Civils Payment No.1 - Grinrod Contract MW000186

ITEM	DESCRIPTION	UNIT	QTY OMIT	QTY ADD	RATE	VALUE OMIT	VALUE ADD
VO 1	Mdima Civils Payment No.1 - Grinrod Contract MW000186						R 2 321 013,21
	Totals						R 2 321 013,21
NETT ADJUSTMENT TO CONSTRUCTED VALUE DUE TO THIS AUTHORISATION (F)							R 2 321 013,21

CALCULATION OF CONTRACT FUNDS REMAINING AFTER THIS VO / EWO HAS BEEN APPROVED

CONSTRUCTION ESTIMATE PRIOR TO THIS THIS VO / EWO	From (D) above		R 41 022 868,16
Nett adjustment due to this authorisation	From (F) above		R 2 321 013,21
CONSTRUCTION INCLUDING THIS VO / EWO	(C/F TO NEXT VO)	(G)	R 43 343 901,37
CONTINGENCIES STILL NEEDED			R 1 781 275,61
ESCALATION	(ESTIMATE ONLY)		R 3 610 014,16
SUB TOTAL			R 48 735 191,16
VAT			R 6 822 926,76
ESTIMATED FINAL CONTRACT VALUE INCLUDING THIS VO / EWO		(H)	R 55 558 117,92

TENDER SUM REMAINING SUBSEQUENT TO THIS AUTHORISATION (INCLUDING VAT) Surplus (C) - (H) R 0,00

Authorisation

SSO JV VITAYTYPE is hereby authorised to carry out the works set out above as VARIATION ORDER No. 1
to
Contract MW/28/2014 : Construction of a second circular 20ML Reservoir

ENGINEER		Date	
MANAGER : PROJECT MANAGEMENT UNIT			
DIRECTOR : TECHNICAL SERVICES			
Acknowledgement of receipt			
for : SSO JV VITAYTYPE		Date	

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: NAKO ILISO; CONTRACTOR: SSO JV VITATYPE; PROJECT NAME: 2ND CIRCULAR 20ML RESERVOIR; AMOUNT: R2 321 013.21

ANNEXURE I

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

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COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER

REQUIREMENTS FOR SUBMISSION OF PAYMENT CERTIFICATES

The following documents are compulsory to be submitted with all payment certificates submitted to Mhlathuze Water for payment purposes. If any of the following documents are not submitted, the certificate may be rejected or returned. Documents that require signatures must be signed prior submitting the certificate.

Contract Number	Contractors Name	Certificate Number
MW/28/2014	SSO JV	03

Checklist

Description	Yes/No	Comment
Signed Cover page: Engineer,	Yes	
Tax Invoice	Yes	
Schedule of Quantities (Previous, current and to date value)	Yes	
BOQ Summary of sections	Yes	
Schedule of Materials on Site	N/A	
Signed Variation Order	Yes	
Variation Order Summary Page: Claim to date	Yes	1 Variation Order
Escalation calculation: CPA (if applicable)	N/A	Apply at end of contract
Signed minutes of the latest meeting	N/A	
Signed current contractors report	N/A	Progress meeting (1)
Labour Returns: EPWP	N/A	scheduled for 05/11/15
Letter of Appointment	N/A	
Completion Certificate (If claiming retention)	N/A	Retention Guarantee Received.

Failure to submit the above mentioned documents will result in the payment certificate being rejected. Only originals or copies of original documents will be accepted. Altered documents will not be accepted.

ILISO consulting

Ref: 1500045-21-0003

Iliso Consulting
11 Derby Place
Westville
Durban
4001
28 October 2015

MHLATHUZE WATER
Private Bag X1047
Richards Bay
KwaZulu-Natal
3900

Attention: Mr Siphesihle Xaba

CONTRACT MW/28/2014: MHLATHUZE WATER: NSEZI WTW AND ASSOCIATED BULK INFRASTRUCTURE – CONSTRUCTION OF A SECOND CIRCULAR 20Ml RESERVOIR – PAYMENT CERTIFICATE 3

Dear Sir,

The payment certificate submitted by SSO/Vitatype Nsezi JV on the 28th October 2015 has reference. We confirm that their Certificate no. 3 to the value of **R8 376 849,46** (including VAT) is hereby approved by the engineer in terms of the General Conditions of Contract 2010.

Should you have any queries, please do not hesitate to contact the undersigned.

Yours faithfully,

P.P Mani Govender. Pr Eng
Project Engineer

MHLATHUZE WATER
CERTIFICATE OF PROGRESS PAYMENT

	MHLATHUZE WATER		28-Oct-15
	MW / 28 / 2014		03
	NSEZI WTW & ASSOCIATED INFRASTRUCTURE - CONSTRUCTION OF A SECOND 20 ML RESERVOIR		
	SSO JV		
			R 41 022 888,18 R 4 102 288,82 R 3 610 014,16 R 6 822 926,76 R 55 558 117,92

PREVIOUS PAYMENTS		
Cert No.	Amount	14 % VAT
1	R 2 162 581,02	R 302 761,34
2	R 5 270 400,70	R 737 856,10
Total	R 7 432 981,72	R 1 040 617,44

Value of work done		R 7 432 981,72
(Add 14% VAT)		R 1 040 617,44
Escalation		R 0,00
(Add 14% VAT)		R 0,00
Materials on Site (80%)		R 5 027 100,35
(Add 14% VAT)		R 703 794,05
Variation Orders		R 2 321 013,21
(Add 14% VAT)		R 324 941,85
Total Previous payments	R 7 432 981,72	
(Add 14% VAT)	R 1 040 617,44	
Retention money	R 0,00	
(Add 14% VAT)	R 0,00	
TOTAL PAYMENT NOW DUE (VAT incl.)	R 8 376 849,46	
	R 15 850 448,62	R 15 850 448,62

I certify that the payment is in accordance with the terms of the contract and that the work to the value of the amount payable has been properly performed.

CERTIFIED CORRECT

P.P
for Contractor - SSO JV

30 - 10 - 2015
DATE

P.P
for Engineer - ILISO Consulting

28/10/15
DATE

for Employer - Mhlathuze Water

DATE

COMMISSION OF INQUIRY INTO STATE CAPTURE

Oro Projects

28 October 2015

Ref. B413/03

MHLATHUZE WATER
CORNER OF SOUTH CENTRAL ARTERIAL AND BATTERY BANK
ALTON
RICHARDS BAY
3900

Attention: Mr. Siphesihle Xaba

Dear Sir,

Re: CONTRACT MW/26/2014 - NSEZI WASTE WATER TREATMENT WORKS AND ASSOCIATED BULK INFRASTRUCTURE OF SECOND 20ML RESERVOIR

Enclosed herewith please find our payment application No.03.

We trust the above meets with your approval and hold ourselves available should you require any further documentation or clarification.

Yours faithfully

Darian Davies

COMMISSION OF INQUIRY INTO STATE CAPTURE

MDIMA CIVILS MONTHLY OVERALL WORKER SCHEDULE

OVERALL PROJECT WORKER SCHEDULE (local labourers only)

FORM 1

No.	Name of Local Labourer	Identity Number	Month Worker Started	Age	Tick if Yes					Place a tick in the box which				
										Women		Men		
					Female Head Households with Dependand	Disabled	Semi-Skilled	Skilled	Un-Skilled	Over 35 yrs	35 yrs & under	Over 35 yrs	35 yrs & under	
1	Sibusiso Duze	901223 5884 083	Mar'14	23					1				1	
2	Mboneni Cele	841201 6319 088	April'14	29					1				1	
3	Simphiwe Nsele	900312 5892 088	Aug'14	25					1				1	
4	Zama Dube	851111 5841 080	Oct'14	29					1		1			
5	Thabani Mkhize	790227 5628 087	May'15	36					1			1		
6	Sizwe Mpungose	790807 5926 086	May'15	36					1			1		
7	Wiseman Nene	870528 6017 088	May'15	28					1				1	
8	Mzwandile Mkhwanazi	890414 5905 084	May'15	26					1				1	
9	Sbusiso Ncube	800104 6099 081	Sep'15	35				1					1	
10	Moses Radebe	710228 6223 083	Oct'15	44				1				1		
11	Delani Ndwalane	750103 6171 080	Oct'15	40				1				1		
12	Mbongeni Mkhize	681024 5734 088	Oct'15	47				1				1		12
Total for this sheet					0	0	0	0	8	0	1	5	6	K) = G+H+I+J
Total from previous sheet										-				
Total carried forward					1	0	0	0	8	0	1	5	6	
					A	B	C	D	E	G	H	I	J	

Signed: .....

Designation: MEMBER

Date: 27/10/2015

DD34-DCM-223

MDIMA CIVILS MONTHLY OVERALL WORKER SCHEDULE

OVERALL PROJECT WORKER SCHEDULE (local labourers only)

MONTH	Put Number if Yes					Put Number if Yes				TOTAL EMPLOYEES	TOTAL PAID
						Women		Men			
	Female Head Households with Dependandants	Disabled	Semi-Skilled	Skilled	Un-Skilled	Over 35 yrs	35 yrs & under	Over 35 yrs	35 yrs & under		
JANUARY											
FEBRUARY											
MARCH					8		1	5	6	12	
APRIL					8		1	5	6	12	
MAY					8		1	5	6	12	
JUNE					8		1	5	6	12	
JULY					8		1	5	6	12	
AUGUST					8		1	5	6	12	
EPTEMBER				4	8		1	5	6	12	
OCTOBER				4	8		1	5	6	12	
NOVEMBER											
DECEMBER											
otal	0			8	64	-	8	40	48	96	-

Signed: .....

Designation: Member

Date: 27/10/2015

DD34-DCM-224

MW000188 -Grindrod Rerouting of Pipeline

ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)
BROUGHT FORWARD						R 1 898 581,24
C.1.1.3.3		(a) 160 dia HDPE PE 100 pressure seamless long radius bends, according to ISO 4427				
		(i) 11.25 Degrees bend - class 25	No	0	R 1 235,21	R 0,00
		(ii) 22.5 degrees bend - class 25	No	0	R 1 235,21	R 0,00
		(iii) 45 Degrees bend - class 25	No	0	R 1 235,21	R 0,00
		(iv) 90 degrees bend - class 25	No	0	R 1 235,21	R 0,00
		Isolation Valve Chambers				
D.3.3		(e) Construct Isolation Valve chamber, including cutting pipe where necessary, complete with precast/in-situ reinforced concrete chamber and cover, flange adaptors, pipes with puddle flanges, all flange drillings in accordance with SANS 1123:2003 ,including all valves, fittings ,pipe spool pieces and specials.				
		(iii) 280 mm dia.		3	R 36 216,69	R 108 650,07
		250mm RSV Flanged gate Valve T16		1	R 27 646,79	R/O
D.3.3.1.5		280mm HDPE Elongated stub		1	R 1 748,75	R/O
		280mm Electrofusion coupler		1	R 1 520,45	R/O
		280mm Stainless steel flange T16		1	R 2 200,00	R/O
		280mm VJ Flange adaptor T16		1	R 2 338,03	R/O
		250mm Gasket set T16		2	R 381,33	R/O
		(i) Air valve DN50 t				
D.3.2		(b) Construct double orifice anti-shock Air Valve TYPE2 Chambers, including cutting pipe where necessary, as per Drawings, complete with pre-cast concrete chamber, tee, reducer, valve, flange adapters and all flange drillings in accordance with SANS 1123:2003 ,including all valves, fittings ,pipe spool pieces and specials.				
		c) 280mm		5	R 20 354,14	R 101 770,70
		280>160mm HDPE Reducing Tee		1	R 10 864,79	R/O
		160mm Electrofusion coupler		1	R 370,42	R/O
		160mm Elongated Stub		1	R 318,31	R/O
		160mm Galvanised flange T10/3		1	R 104,75	R/O
		150mm >50mm Galvanised reducer FBE T10/3 Epoxy coated and Lined		1	R 1 133,33	R/O
		50mm Flanged ball Valve T10/3		1	R 3 197,67	R/O
		50mm Flanged Variant Air valve T10/3		1	R 4 014,06	R/O
		50mm Galvanised Boss Flange T10/3		1	R 124,93	R/O
		150mm Gasket Set T10/3(3mm Rubber Incertion Type)		1	R 168,40	R/O
		50mm Gasket Set T10/3(3mm Rubber Incertion Type)		2	R 33,73	R/O
TOTAL SECTION C: MEDIUM PRESSURE PIPELINES AND SPECIALS						R 2 110 012,01

COMMISSION OF INQUIRY INTO STATE CAPTURE

MW000188 -Grindrod Rerouting of Pipeline

CONTRACT NO.: MW000188

ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)
C		SECTION C: WATER PIPELINES				
C.1	SANS 1200 L	WATER PIPELINES - MEDIUM PRESSURE PIPELINES				
C.1.1.1		(b) Buried on 'class S' bedding, HDPE Pipes, PE 100, to comply with ISO 4427 and SANS 4427 unless otherwise specified on the drawings, complete with butt welded fittings				
C.1.1.1.1		(i) 280 mm dia. Class 25	m	1620	R 1 117,90	R 1 810 998,00
C.1.1.2		(c) Supply and lay on Class B bedding, precast spigot and socket pipes for pipe sleeves under roads:				
C.1.1.2.1		i) 375 mm diameter Class 100D	m	70	R 623,30	R 43 631,00
C.1.1.3	PSL 8.2.3	Extra over 8.2.1 for the Laying and Bedding of Specials Complete with Couplings and cutting the pipe where necessary.				
C.1.1.3.1		(a) 280 dia HDPE PE 100 pressure seamless long radius bends, according to ISO 4427				
		(i) 11.25 Degrees bend - class 25	No	5	R 4 938,03	R 24 690,15
		(ii) 22.5 degrees bend - class 25	No	3	R 4 938,03	R 14 814,09
		(iii) 45 Degrees bend - class 25	No	1	R 5 458,00	R 5 458,00
		(iv) 90 degrees bend - class 25	No	0	R 5 450,00	R 0,00
C.1.1.3.2		(a) 200 dia HDPE PE 100 pressure seamless long radius bends, according to ISO 4427				
		(i) 11.25 Degrees bend - class 25	No	0	R 1 854,93	R 0,00
		(ii) 22.5 degrees bend - class 25	No	0	R 1 854,93	R 0,00
		(iii) 45 Degrees bend - class 25	No	0	R 1 854,93	R 0,00
		(iv) 90 degrees bend - class 25	No	0	R 1 854,93	R 0,00
CARRIED FORWARD						R 1 899 591,24

COMMISSION OF ENQUIRY INTO STATE CAPTURE

MW000188 - Grinrod Rerouting of Pipeline

CONTRACT NO.: MW000188

ITEM NO.	PAYMENT	DESCRIPTION		AMOUNT (R)
	SECTION	**SUMMARY**		
	C	MEDIUM PRESSURE PIPELINES	R	2 110 012,01
	D	VALVES AND CHAMBERS	R	-
		Sub-total 1	R	2 110 012,01
		Contingencies (15% of Sub total 1)	R	-
		Sub-total 2	R	2 110 012,01
		CPA (8%) To be finalised with each Dept. Statistics update	R	-
		Sub-total 3	R	2 110 012,01
		Value Added Tax (VAT) at 14%	R	295 401,68
		TOTAL OF PRICES INCLUDING VAT	R	2 405 413,69

MHLATHUZE WATER

AANBEVEEL / RECOMMENDED	DATUMS 14/10/2015
GOEDGEKEUR / APPROVED	DATES

COMMISSION OF INQUIRY INTO STATE CAPTURE

ANNEXURE B:
V.O No.1 – Payment Certificate 3 (28/10/2015)

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: NAKO ILISO; CONTRACTOR: SSO JV VITATYPE; PROJECT NAME: 2ND CIRCULAR 20ML RESERVOIR; AMOUNT: R2 321 013.21

ANNEXURE J

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

1003B Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
T (031) 305 7537 F (031) 305 7538
admin@mhlangainc.co.za

COMMISSION OF INQUIRY INTO STATE CAPTURE

Oro Projects

28 October 2015

Ref. B413/03

MHLATHUZE WATER
CORNER OF SOUTH CENTRAL ARTERIAL AND BATTERY BANK
ALTON
RICHARDS BAY
3900

Attention: Mr. Siphesihle Xaba

Dear Sir,

Re: CONTRACT MW/28/2014 - NSEZI WASTE WATER TREATMENT WORKS AND ASSOCIATED BULK INFRASTRUCTURE OF SECOND 20ML RESERVOIR

Enclosed herewith please find our payment application No.03.

We trust the above meets with your approval and hold ourselves available should you require any further documentation or clarification.

Yours faithfully

Darian Davies

COMMISSION OF INQUIRY INTO STATE CAPTURE

SSO/VITATYPE - NSEZI JOINT VENTURE

14 Circuit Road, Westmead
PO Box 1567, Pinetown, 3600
TEL: +27 31 700 1416
FAX +27 31 700 1188

Oro Projects

Date: 2015-10-28

Mhlathuze Water
Private Bag X1047
Richards Bay
3900

ACC NO: B413

DATE	REFERENCE	DETAILS	DEBIT	CREDIT
2015-09-30	B413/01	WORK DONE	2 465 342,35	
2015-10-25	B413/02	WORK DONE	6 008 256,80	
2015-10-28	B413/02	MOS and Variation Order	8 376 849,46	
			16 850 448,62	0,00

90 DAYS	60 DAYS	30 DAYS	CURRENT	TOTAL
0,00	0,00	0,00		-

COMMISSION OF INQUIRY INTO STATE CAPTURE

SSO/Vitatype Nsezi Joint Venture

14 Circuit Road, Westmead
PO Box 1567, Pinetown, 3600, South Africa
Tel: +27 31 700 1416
Fax: +27 31 700 1158
www.stefstocks.com

Client Information

MHLATHUZE WATER
Corner of South Central Arterial & Battery Bank
Alton
Richards Bay
3900

Customer VAT No. : 4230103352
Client Reg No.

Tax Invoice

B413/03

VAT Number : 4920270644
Invoice Date : 26/10/2015
Order No : MW/28/2014
Enquiries to :

Description/Comments	Account Code	Amount
Certified Contract Income # 3 (October 2015) Nsezi Waste Water Treatment Works & Associated Bulk Infrastructure Construction second 20 Ml Reservoir P O No MW/28/2014	400100-B413	7,348,113.56

Bank Details
Nedbank
Branch Code:145405
Branch :Corporate Client Servi
Acc No.1115290614
Acc Name:SSO/Vitatype Nsezi Joint Venture
Swift Number.
Reference: B413/03

Invoice Paper Number: 16668

Subtotal	7,348,113.56
VAT	1,028,735.90
Amount Due	8,376,849.46

* A Joint Venture between:] Stefanutti Stocks Civils, a division of Stefanutti Stocks (Pty) Ltd - Reg No.: 2003/022221/07
] ORO Management Services Reg No. - 2000/003744/23
] Vitatype Trading 99 CC Reg No. - 2011/100268/23

016668 (Stefanutti Stocks control number – this is not the invoice number)

COMMISSION OF INQUIRY INTO STATE CAPTURE

SSO VITATYPE JOINT VENTURE
PAYMENT APPLICATION SUMMARY

Oro Projects

CLIENT:	MHLATUZE WATER CORNER OF SOUTH CENTRAL ARTERIAL & BATTERY BANK ALTON 3900 VAT REG. NO. 4230103352	**DATE:**	28 October 2015
		CERTIFICATE NO:	THREE (3)
CONTRACT:	NSEZI WTW AND ASSOCIATED BULK INFRASTRUCTURE - CONSTRUCTION OF A SECOND 20ML RESERVOIR	**CONTRACT NO:**	MW/28/2014
		STEFANUTTI CONTRACT NO:	8413
INVOICE NO.	8413/03	**MEASURED :**	28 October 2015

CONTRACT SUMMARY (All values exclusive of vat)	
ORIGINAL CONTRACT VALUE (Contract Award)	48,735,191.15
CONTRACT PRICE ADJUSTMENTS (Estimated)	0.00
APPROVED CHANGES	0.00
AMENDED CONTRACT VALUE	48,735,191.15

Measured Work to Date			7,435,545.83	
ADD: Approved Changes			2,321,013.21	
ADD: Contract Price Adjustment	Refer to Attached Calculation Sheet		0.00	
ADD: Interest Charges			0.00	
Advance Payment			0.00	
Advance Payment Adjustment			0.00	
		Subtotal 1		9,756,559.04
DDT: Retention			-	
		Subtotal 2		9,756,559.04
DDT: Discount Early Payment		0.00%	-	
		Subtotal 3		9,756,559.04
ADD: Materials on Site	80%	-	-	5,027,100.35
	Total Claimed to Date	Subtotal 4		14,783,659.39
DDT: Previously Certified				7,435,545.83
		Subtotal 5		7,348,113.56
ADD: Vat		14%	1,028,735.90	
		TOTAL PAYMENT DUE		8,376,849.46

FOR: STEFANUTTI STOCKS CIVILS KZN DATE: 29 October 2015

SSO VITATYPE - NSEZI JOINT VENTURE

14 Circuit Road, Westmead
PO Box 1567, Pinetown, 3600
TEL: +27 31 700 1416
FAX +27 31 700 1165

Oro Projects

TAX INVOICE
VAT REGISTRATION NO. 4920270644

CLIENT: MHLATHUZE WATER
CORNER OF SOUTH CENTRAL ARTERIAL AND BATTERY BANK
ALTON
RICHARDS BAY
3900
SOUTH AFRICA

DATE: 29 October 2015

CERTIFICATE NO: THREE (3)

CONTRACT: NSEZI WASTE WATER TREATMENT WORKS
AND ASSOICIATED BULK INFRASTRUCTURE
CONSTRUCTION OF SECOND 20ML RESERVOIR

CONTRACT/PO NO: MW/28/2014
CLIENT VAT NO: 4230103352

INVOICE NO. 8413/03

MEASURED : 29 October 2015

ORIGINAL CONTRACT VALUE (excl.)	R	46,735,191.15
PLUS (MINUS) NETT VARIATIONS	R	
AMENDED CONTRACT VALUE	R	46,735,191.15

MEASURED WORKS		7,432,981.72
VARIATIONS		2,921,013.21
ADVANCE PAYMENT		[illegible]
MATERIALS ON SITE @80% OF		14,781,095.28
CONTRACT PRICE ADJUSTMENT (SEE ATTACHED ESCALATION SHEET)		14,781,095.28
LESS: RETENTION at 0%		14,781,095.28
LESS: PREVIOUSLY CERTIFIED		[illegible]
ADD: 14% VAT.		7,348,113.56
TOTAL PAYMENT DUE		1,028,736.90
		8,376,849.46

FOR: SSO VITATYPE - NSEZI JOINT VENTURE **DATE:** 29 October 2015

BANKING DETAILS :
BANK: NEDBANK
BRANCH : CORPORATE CLIENT SERVICES - JHB
ACCOUNT NO. : 1115290614
BRANCH CODE : 145-405

COMMISSION OF INQUIRY INTO STATE CAPTURE

SSO VITATYPE JOINT VENTURE
PAYMENT APPLICATION SUMMARY

Oro Projects

CLIENT: MHLATUZE WATER
CORNER OF SOUTH CENTRAL ARTERIAL & BATTERY BANK
ALTON
3900
VAT REG. NO. 4230103852

DATE: 28 October 2015

CERTIFICATE NO: THREE (3)

CONTRACT: NSEZI WTW AND ASSOCIATED BULK INFRASTRUCTURE - CONSTRUCTION OF A SECOND 20ML RESERVOIR

CONTRACT NO: MW/28/2014
STEFANUTTI CONTRACT NO: B413

INVOICE NO. B413/03

MEASURED : 28 October 2015

CONTRACT SUMMARY (Values exclusive of Vat)	
ORIGINAL CONTRACT VALUE (Contract Award)	48 735 191,15
CONTRACT PRICE ADJUSTMENTS (Estimated)	0,00
APPROVED CHANGES	0,00
AMENDED CONTRACT VALUE	48 735 191,15

Measured Work to Date			7 435 545,83	
ADD: Approved Changes			2 321 013,21	
ADD: Contract Price Adjustment	Refer to Attached Calculation Sheet		0,00	
ADD: Interest Charges			0,00	
Advance Payment			0,00	
Advance Payment Adjustment			0,00	
		Subtotal 1		9 756 559,04
DDT: Retention			-	
		Subtotal 2		9 756 559,04
DDT: Discount Early Payment		0,00%	-	
		Subtotal 3		9 756 559,04
ADD: Materials on Site	80%	-		5 027 100,35
	Total Claimed to Date	Subtotal 4		14 783 659,39
DDT: Previously Certified				7 435 545,83
		Subtotal 5		7 348 113,56
ADD: Vat		14%	1 028 735,90	
		TOTAL PAYMENT DUE		8 376 849,46

FOR: STEFANUTTI STOCKS CIVILS KZN

DATE: 29 October 2015

COMMISSION OF INQUIRY INTO STATE CAPTURE

Nsezi WTW Phase 2

CT1246 - Nsezi Reservoir No. 2 Valuation 3

B413 October 2015 (a)

PAGE	ITEM	DESCRIPTION	UNIT	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
		MHLATHUZE WATER - CONSTRUCTION OF A SECOND 20Ml CIRCULAR RESERVOIR AT NSEZI WTW						
		SECTION 1: PRELIMINARY AND GENERAL						
		SECTION 1: PRELIMINARY AND GENERAL						
	1.1	FIXED CHARGES AND VALUE RELATED ITEMS						
S1.1/3	1.1.1	Contractual Requirements	Sum	0.8	0.0	0.8	343,939.20	275,151.36
		Establishment of facilities on site:						
	1.1.2	Facilities for Engineer						
	1.1.2.1	a) Furnished Office (one)	Sum	0.8	0.0	0.8	118,658.30	94,926.64
	1.1.2.2	b) Telephone & Email	Sum	0.8	0.0	0.8	7,799.63	6,239.70
	1.1.2.3	c) Name board (two)	Sum	0.8	0.0	0.8	5,777.60	4,622.08
	1.1.3	Facilities for Contractor						
	1.1.3.1	a) Offices and storage sheds	Sum	0.8	0.0	0.8	1,438,973.21	1,151,178.57
	1.2	TIME RELATED ITEMS						
	1.2.1	Contractual Requirements	Weeks	6	0	6	23,797.87	142,786.02
	1.2.4	Facilities for Contractor						
	1.2.4.1	a) Offices and storage sheds	Weeks	6	0	6	20,936.77	125,620.62
	1.2.4.6	f) Tools and equipment	Weeks	6	0	6	914.56	5,487.36
	1.2.4.10	j) Plant	Weeks	6	0	6	17,628.88	105,773.28
	1.2.5	Supervision for the duration of the Contract	Weeks	6	0	6	13,609.09	81,654.54
		Total Page S1.1/3 1,993,440.09						
	1.2.7	OTHER TIME RELATED OBLIGATIONS						
S1.2/3	1.2.7.2	The Contractor is to comply with the Health & Safety Act (Act 85 of 1993)	Weeks	6	0	6	6,199.70	37,198.20
		RUNNING TOTAL						2,030,638.29

PAGE	ITEM	DESCRIPTION	UNIT	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
	1.2.7.4	The Contractor is to comply with the Environmental Management Act (107 of 1998), the Environmental Conservation Act (No. 73 of 1989) and the implementation of the Environmental Record of Decision (R.O.D) and Environmental Management Plan as specified	Weeks	6	0	6	937.29	5,623.74
	1.3	SUMS STATED PROVISIONALLY BY THE ENGINEER						
	1.3.3	Provide the Provisional Sum of R120 000.00 for the payment of a Community Liaison Officer - R120,000.00	Prov S	3,119.41	0.00	3,119.41	1.00	3,119.41
	1.3.4	Overheads, charges, profit on item 1.3.3 above	%	3,119.41	0.00	3,119.41		467.91
		Total Page S1.2/3 46,409.26						
S1.3/3	1.3.19	Engineers accommodation - R150,000.00	Prov S	18564.58	0.00	18564.58	1.00	18,564.58
	1.3.20	Overheads and profit on item 1.3.19	%	18564.58	0.00	18564.58		2,784.69
	1.3.23	Allowance for the construction and maintenance of access road to reservoir - R200,000.00	Prov S	31103.67	0.00	31103.67	1.00	31,103.67
	1.3.24	Overheads and profit on item 1.3.23	%	31103.67	0.00	31103.67		4,665.55
	1.4	TEMPORARY WORKS						
	1.4.1	Construct and maintain main access to the Works	Sum	1	0	1	48,895.28	48,895.28
	1.4.3	Accommodation and management of traffic (also refer to SANS 1921-2)	Sum	0.167	0.000	0.167	16,327.22	2,726.65
		Total Page S1.3/3 108,740.42						
		SECTION 2: RESERVOIR AND ASSOCIATED CHAMBERS						
	2.1	SITE CLEARANCE						
S2.1/2	2.1.1	Clear & grub site area	m²	6,476.48	0.00	6,476.48	3.74	24,222.04
	2.1.2	Remove and grub large trees and tree stumps regardless of girth	ha	0.647748	0.000000	0.647748	42,882.82	27,777.26
	2.1.3	Remove topsoil to nominal depth of 100mm and stockpile	m³	723.748	0.000	723.748	38.88	28,139.32
		RUNNING TOTAL						2,228,726.39

Nsezi WTW Phase 2 — **CT1246 - Nsezi Reservoir No. 2 Valuation 3**

B413 October 2015 (a)

PAGE	ITEM	DESCRIPTION	UNIT	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
	2.1.4	Take down existing fences	m	20	0	20	70.14	1,402.80
	2.2	EARTHWORKS						
	2.2.1	BULK EXCAVATION						
	2.2.1.1	Excavate in all materials and use for embankment or backfill or dispose of as ordered for:						
		i) Cut to spoil	m³	4,496	0	4,496	24.66	110,871.36
		ii) Cut to stockpile	m³	9,128	0	9,128	29.71	271,192.88
	2.2.2	RESTRICTED EXCAVATION						
	2.2.2.1	Excavate for restricted foundations and footings in all materials and use for backfill or embankment or dispose for:						
		i) Inlet, Outlet, Scour and Overflow Chambers	m³	5666.287	0.000	5666.287	71.28	403,887.23
	2.2.3	IMPORTING OF MATERIALS						
	2.2.3.1	a) Importation of materials from commercial sources:						
		i) Imported G5 material for reservoir layerworks	m³	5362.342	0.000	5362.342	432.03	2,316,692.61
		ii) Imported G7 material for reservoir layerworks	m³	419.909	0.000	419.909	227.05	95,340.34
		i) Imported G5 material for chamber layerworks	m³	107.984	0.000	107.984	432.03	46,643.69
		ii) Imported G7 material for chamber layerworks	m³	53.982	0.000	53.982	227.05	12,256.61
		Total Page S2.1/2 3,338,425.14						
	2.3	EARTHWORKS (ROAD, SUBGRADE)						
	2.3	Selected Layers - Reservoir						
	2.3.1.1	Compact G9 material to form embankments to a density of 93% MOD AASHTO, as per drawing 1500045-C-004.						
S2.2/2	2.3.1.2	Rip and recompact 200mm of insitu ground to a density of 95% MOD AASHTO, as per drawing 1500045-C-004	m³	466.566	0.000	466.566	28.54	13,315.79
		RUNNING TOTAL						5,500,331.70

Nsezi WTW Phase 2 — **CT1246 - Nsezi Reservoir No. 2 Valuation 3**

B413 October 2015 (a)

PAGE	ITEM	DESCRIPTION	UNIT	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
	2.3.1.3	Compact imported G7 material in a 180mm layer to a density of 98% MOD AASHTO, as per drawing 1500045-C-004 for Reservoir Layerworks	m³	419.909	0.000	419.909	53.14	22,313.96
	2.3.1.4	Compact imported G5 material in 200mm x 10 layers to a density of 98% MOD AASHTO, as per drawing 1500045-C-004 for Reservoir Layerworks	m³	4685.658	0.000	4685.658	48.15	224,651.43
	2.3.2	Selected Layers - Chambers						
	2.3.2.1	Compact G9 material to form embankments to a density of 93% MOD AASHTO						
	2.3.2.2	Rip and recompact 200mm of insitu ground to a density of 95% MOD AASHTO, as per drawing 1500045-C-004	m³	35.988	0.000	35.988	160.58	5,778.96
	2.3.2.3	Compact imported G7 material in a 150mm x 2 layers to a density of 98% MOD AASHTO, as per drawing 1500045-C-004 for Chamber Layerworks	m³	53.982	0.000	53.982	367.03	20,892.65
	2.3.2.4	Compact imported G5 material in 150mm x 4 layers to a density of 98% MOD AASHTO, as per drawing 1500045-C-004 for Chamber Layerworks	m³	108.684	0.000	108.684	592.00	64,281.73
	2.3.3	Supply and lay geogrid flexmesh or similar materials to manufacture's requirments (For reservoir and chamber layerworks)	m²	29433.94	0.000	29433.94	54.18	1,594,731.30
		Total Page S2.2/2 1,945,965.81						
		RUNNING TOTAL						7,432,981.72

Nsezi WTW Phase 2

CT1246 - Nsezi Reservoir No. 2 Valuation 3

HEADING SUMMARY OF B413 October 2015 (a)

PAGE	SECTION	LEVEL	PREVIOUS	PRESENT	AMOUNT
S1.1/3	MHLATHUZE WATER - CONSTRUCTION OF A SECOND 20Ml CIRCULAR RESERVOIR AT NSEZI WTW	1	7,432,981.72		7,432,981.72
S1.1/3	SECTION 1: PRELIMINARY AND GENERAL	2	2,148,589.77		2,148,589.77
S2.1/2	SECTION 2: RESERVOIR AND ASSOCIATED CHAMBERS	2	5,284,391.95		5,284,391.95
	VALUATION TOTAL		7,432,981.72		7,432,981.72

COMMISSION OF INQUIRY INTO STATE CAPTURE

Mdima Civils

Reg No: 2006/011949/23

VAT No: 4420220537

TAX INVOICE NO. 2015/0026

Cell: 072 083 8175
Fax: 086 529 0045
Email: xolani@mdimacivils.co.za

44 Chunion Road
Cowies Hill
Pinetown
3610

Highfield Branch
Box 329
3306

TO: Mhlathuze Water-Amanzi
P O BOX 1265
RICHARDS BAY
3900
VAT No: 4230103352

Tel: (035) 902 1000 Fax: (035) 902 1111

Date : 26-October-2015

Item	Description	Rate	Qty	Amount
1.	Work Completed to date	R 2 110 012,01	1	R 2 110 012,01
	Replacement of 740m Long B-Line (Phase 1A) MW000188			
			Sub-Total	R 2 110 012,01
			Vat	R 295 401,68
			Total	R 2 406 413,69

Signed: _____

Mdima Civils Banking Details:

VAT No.:	4420220537
Account No:	1339529424
Bank :	Nedbank
Branch code:	198765

COMMISSION OF INQUIRY INTO STATE CAPTURE

Mdima Civils

Reg No: 2005/011949/23
VAT No: 4420220537

Cell: 072 065 5175
Fax: 086 529 0045
Email: rolant@mdimaciv ils.co.za

44 Chureton Road
Cowies Hill
Pinetown
3610

STATEMENT OF ACCOUNTS

Date : 26 October 2015

ATTENTION: ACCOUNTS DEPARTMENT

Customer: Mhlathuze Water
P.O. Box 1264
Richards Bay
3300
Tel: (035) 902 1000
Fax: (035) 902 1109
VAT No: 4230103352

Delivery Address: Mhlathuze Water
P.O. Box 1264
Richards Bay
3300
Tel: (035) 902 1000
Fax: (035) 902 1109
VAT No: 4230103352

Date	Reference	Amount
26/10/2015	Invoice No: 2015/0026	R 2 405 413,69

90 days	60 days	30 days	Current
			R 2 405 413,69

Bank details	
VAT No.:	4420220537
Account No:	1339529424
Bank :	Nedbank
Branch:	Pinetown
Branch code:	198765

COMMISSION OF INQUIRY INTO STATE CAPTURE

MDIMA CIVILS MONTHLY OVERALL WORKER SCHEDULE

OVERALL PROJECT WORKER SCHEDULE (local labourers only)

MONTH	Put Number if Yes					Put Number if Yes				TOTAL EMPLOYEES	TOTAL PAID
						Women		Men			
	Female Head Households with Dependandants	Disabled	Semi-Skilled	Skilled	Un-Skilled	Over 35 yrs	35 yrs & under	Over 35 yrs	35 yrs & under		
JANUARY											
FEBRUARY											
MARCH											
APRIL					8		1	5	6	12	
MAY					8		1	5	6	12	
JUNE					8		1	5	6	12	
JULY					8		1	5	6	12	
AUGUST					8		1	5	6	12	
EPTEMBER					8		1	5	6	12	
OCTOBER				4	8		1	5	6	12	
NOVEMBER				4	8		1	5	6	12	
DECEMBER											
otal	0			8	64	-	8	40	48	96	-

Signed: .....

Designation: MEMBER

Date: 27/10/2015

DD34-DCM-243

MDIMA CIVILS MONTHLY OVERALL WORKER SCHEDULE

OVERALL PROJECT WORKER SCHEDULE (local labourers only)

FORM 1

No.	Name of Local Labourer	Identity Number	Month Worker Started	Age	Tick if Yes					Place a tick in the box which				
										Women		Men		
					Female Head Household with Dependand	Disabled	Semi-Skilled	Skilled	Un-Skilled	Over 35 yrs	35 yrs & under	Over 35 yrs	35 yrs & under	
1	Sibusiso Duze	901223 5884 083	Mar'14	23					1				1	
2	Mboneni Cele	841201 6319 088	April'14	29					1				1	
3	Simphiwe Nsele	900312 5892 088	Aug'14	25					1				1	
4	Zama Dube	851111 5841 080	Oct'14	29					1		1			
5	Thabani Mkhize	790227 5628 087	May'15	36					1			1		
6	Sizwe Mpungose	790807 5926 086	May'15	36					1			1		
7	Wiseman Nene	870528 6017 088	May'15	28					1				1	
8	Mzwandile Mkhwanazi	890414 5905 084	May'15	26					1				1	
9	Sbusiso Ncube	800104 6099 081	Sep'15	35				1					1	
10	Moses Radebe	710228 6223 083	Oct'15	44				1				1		
11	Delani Ndwalane	750103 6171 080	Oct'15	40				1				1		
12	Mbongeni Mkhize	681024 5734 088	Oct'15	47				1				1		12
Total for this sheet					0	0	0	0	8	0	1	5	6	K) = G+H+I+J
Total from previous sheet														
Total carried forward					1	0	0	0	8	0	1	5	6	
					A	B	C	D	E	G	H	I	J	

Signed:.....

Designation: Member

Date: 27/10/2015

DD34-DCM-244

MW000188 -Grindrod Rerouting of Pipeline

CONTRACT NO.: MW000188						
ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)
C		SECTION C: WATER PIPELINES				
C.1	SANS 1200 L	WATER PIPELINES - MEDIUM PRESSURE PIPELINES				
C.1.1.1		(b) Buried on 'class S' bedding, HDPE Pipes, PE 100, to comply with ISO 4427 and SANS 4427 unless otherwise specified on the drawings, complete with butt welded fittings				
C.1.1.1.1		(i) 280 mm dia. Class 25	m	1620	R 1 117,90	R 1 810 998,00
C.1.1.2		(c) Supply and lay on Class B bedding, precast spigot and socket pipes for pipe sleeves under roads:				
C.1.1.2.1		i) 375 mm diameter Class 100D	m	70	R 623,30	R 43 631,00
C.1.1.3	PSL 8.2.3	Extra over 8.2.1 for the Laying and Bedding of Specials Complete with Couplings and cutting the pipe where necessary.				
C.1.1.3.1		(a) 280 dia HDPE PE 100 pressure seamless long radius bends, according to ISO 4427				
		(i) 11.25 Degrees bend - class 25	No	5	R 4 938,03	R 24 690,15
		(ii) 22.5 degrees bend - class 25	No	3	R 4 938,03	R 14 814,09
		(iii) 45 Degrees bend - class 25	No	1	R 5 458,00	R 5 458,00
		(iv) 90 degrees bend - class 25	No	0	R 5 450,00	R 0,00
C.1.1.3.2		(a) 200 dia HDPE PE 100 pressure seamless long radius bends, according to ISO 4427				
		(i) 11.25 Degrees bend - class 25	No	0	R 1 854,93	R 0,00
		(ii) 22.5 degrees bend - class 25	No	0	R 1 854,93	R 0,00
		(iii) 45 Degrees bend - class 25	No	0	R 1 854,93	R 0,00
		(iv) 90 degrees bend - class 25	No	0	R 1 854,93	R 0,00
CARRIED FORWARD						R 1 899 591,24

COMMISSION OF INQUIRY INTO STATE CAPTURE

MW000188 -Grindrod Rerouting of Pipeline

ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT. (R)
BROUGHT FORWARD						R 1 899 581,24
C.1.1.3.3		(a) 160 dia HDPE PE 100 pressure seamless long radius bends, according to ISO 4427				
		(i) 11.25 Degrees bend - class 25	No	0	R 1 235,21	R 0,00
		(ii) 22.5 degrees bend - class 25	No	0	R 1 235,21	R 0,00
		(iii) 45 Degrees bend - class 25	No	0	R 1 235,21	R 0,00
		(iv) 90 degrees bend - class 25	No	0	R 1 235,21	R 0,00
		Isolation Valve Chambers				
D.3.3		(e) Construct Isolation Valve chamber, including cutting pipe where necessary, complete with precast/in-situ reinforced concrete chamber and cover, flange adaptors, pipes with puddle flanges, all flange drillings in accordance with SANS 1123:2003 ,including all valves, fittings ,pipe spool pieces and specials.				
		(iii) 280 mm dia.		3	R 36 216,69	R 108 650,07
D.3.3.1.5		250mm RSV Flanged gate Valve T16		1	R 27 646,79	R/O
		280mm HDPE Elongated stub		1	R 1 748,75	R/O
		280mm Electrofusion coupler		1	R 1 520,46	R/O
		280mm Steinless steel flange T16		1	R 2 200,00	R/O
		280mm VJ Flange adaptor T16		1	R 2 338,03	R/O
		250mm Gasket set T16		2	R 381,33	R/O
		(i) Air valve DN50 t				
D.3.2		(b) Construct double orifice anti-shock Air Valve TYPE2 Chambers, including cutting pipe where necessary, as per Drawings, complete with pre-cast concrete chamber, tee, reducer, valve, flange adapters and all flange drillings in accordance with SANS 1123:2003 ,including all valves, fittings ,pipe spool pieces and specials.				
		c) 280mm		5	R 20 354,14	R 101 770,70
		280>160mm HDPE Reducing Tee		1	R 10 864,79	R/O
		160mm Electrofusion coupler		1	R 370,42	R/O
		160mm Elongated Stub		1	R 318,31	R/O
		160mm Galvanised flange T10/3		1	R 104,75	R/O
		150mm >50mm Galvanised reducer FBE T10/3 Epoxy coated and Lined		1	R 1 133,33	R/O
		50mm Flanged ball Valve T10/3		1	R 3 197,67	R/O
		50mm Flanged Variant Air valve T10/3		1	R 4 014,08	R/O
		50mm Galvanised Boss Flange T10/3		1	R 124,93	R/O
		150mm Gasket Set T10/3(3mm Rubber insertion Type)		1	R 158,40	R/O
		50mm Gasket Set T10/3(3mm Rubber insertion Type)		2	R 33,73	R/O
TOTAL SECTION C: MEDIUM PRESSURE PIPELINES AND SPECIALS						R 2 110 012,01

MW000188 - Grinrod Rerouting of Pipeline

CONTRACT NO.: MW000188

ITEM NO.	PAYMENT	DESCRIPTION		AMOUNT (R)
	SECTION	**SUMMARY**		
	C	MEDIUM PRESSURE PIPELINES	R	2 110 012,01
	D	VALVES AND CHAMBERS	R	-
		Sub-total 1	R	2 110 012,01
		Contingencies (15% of Sub total 1)	R	-
		Sub-total 2	R	2 110 012,01
		CPA (8%) To be finalised with each Dept. Statistics update	R	-
		Sub-total 3	R	2 110 012,01
		Value Added Tax (VAT) at 14%	R	295 401,68
		TOTAL OF PRICES INCLUDING VAT	R	2 405 413,69

MHLATHUZE WATER

AANBEVEEL / RECOMMENDED	DATUMS / DATES
GOEDGEKEUR / APPROVED	14/10/2015

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: NAKO ILISO; CONTRACTOR: SSO JV VITATYPE; PROJECT NAME: 2ND CIRCULAR 20ML RESERVOIR; AMOUNT: R2 321 013.21

ANNEXURE K

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

1003B Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
T (031) 305 7537 F (031) 305 7538
admin@mhlanga-inc.co.za

COMMISSION OF INQUIRY INTO STATE CAPTURE

FINAL APPROVAL CERTIFICATE

IP150_B3

EMPLOYER: MHLATHUZE WATER

Contract No. MW000188: Assessment of Existing Effluent Pipes at Grindrod Terminal Site – Replacement of 740m Long B-Line (Phase 1a)

CONTRACTOR: MDIMA CIVILS

The Engineer, in terms of Clause 5.16.1 of the General Conditions of Contract 2010, hereby certifies that as of **24 June 2016** the abovementioned Works have been completed and all defects corrected in accordance with the Contract.

NZUZO BUTHELEZI	
NAME OF ENGINEER	**SIGNATURE OF ENGINEER**
28 JUNE 2016	
DATE	

FINAL APPROVAL CERTIFICATE

IP150_B3

EMPLOYER: MHLATHUZE WATER

CONTRACT No. MW000188: ASSESSMENT OF EXISTING EFFLUENT PIPES AT GRINDROD TERMINAL SITE

CONTRACTOR: MDIMA CIVILS

The Engineer, in terms of Clause 5.16.1 of the General Conditions of Contract 2010, hereby certifies that as of **20 May 2016** the abovementioned Works have been completed and all defects corrected in accordance with the Contract.

NZUZO BUTHELEZI	
NAME OF ENGINEER	SIGNATURE OF ENGINEER
20 MAY 2016	
DATE	

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: NAKO ILISO; CONTRACTOR: SSO JV VITATYPE; PROJECT NAME: 2ND CIRCULAR 20ML RESERVOIR; AMOUNT: R2 321 013.21

ANNEXURE L

Prepared by

MHLANGA INC
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NAKO ILISO

MHLATHUZE WATER • AMANZI

CONTRACT NO. AND TITLE:

MW/28/2014 – CONSTRUCTION OF A SECOND CIRCULAR 20ML RESERVOIR

VARIATION ORDER NO. 1

CONSULTANT PROJECT NO.:

1500045

JUNE 2017

COMMISSION OF INQUIRY INTO STATE CAPTURE

Issue/revision	Revision 0	Revision 1	Revision 2
Remarks	Variation Order No. 1		
Date	2017-06-12		
Prepared by	Santosh Soobryan		
Contact	031 266 2600		
Signature			
Checked by	Mani Govender		
Signature			
Authorised by	Mani Govender		
Signature			
Project number	1500045		
File reference	G:\ACTIVE\2 - Active Projects\1500045 NSEZI WTW\2-Correspondence Out\21-Clients\Variation summary\Individual Variations\VO 1		

Document Control

Prepared for:

MHLATHUZE WATER

Cnr of South Central Arterial and Battery Bank

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E-Mail: anthony@bhovungane.co.za

Prepared by:

ILISO CONSULTING (Pty) Ltd

Engineers And Project Managers

t/a NAKO ILISO

11 Derby Place

Derby Downs Office Park

Westville

3629

Tel: 031 266 2600

Fax: 031 266 2616

E-Mail: mani.govender@nakogroup.com

EXECUTIVE SUMMARY

1. ILISO Consulting t/a NAKO ILISO were appointed by Mhlathuze Water for the Detailed Design, Contract Administration and Close Out stages for the Construction of a Second Circular 20ML Reservoir. The contract MW/28/2014 was tendered in June 2015 and awarded in September 2015 to SSO JV Vitatype.

2. In addition to the report titled "Summary of Variation Orders, Extra Works Orders, Extensions of Time & Standing Time Claims" submitted to Mhlathuze Water on 27 January 2017 which contained all Variation Orders in one collated report, Mhlathuze Water requested to submit each Variation Order individually for approval purposes.

3. This report therefore provides all information pertaining to *V.O No.1 - Mdima Civils Payment No. 1 – Grinrod Contract* only, including all supporting documentation in the required format. For reference purposes the format in which this Variation Order had been submitted for approval previously can be found under *Annexure B – V.O No. 1: Payment Certificate 3 (28/10/2015)* which also includes the instruction from Mhlathuze Water.

4. ILISO Consulting t/a NAKO ILISO were instructed by Mhlathuze Water to process a payment certificate for the Grinrod Rerouting Pipeline Project, Contract number MW000188 in October 2015. The payment certificate was for Mdima Civils and the instruction from Mhlathuze Water to ILISO Consulting was to process the payment certificate under the SSO JV contract MW/28/2014. (See *Annexure A – V.O No.1 - Mdima Civils Payment No. 1 – Grinrod Contract*). The value of the Mdima Civils Certificate No.1 was R 2 110 012.01 (Excl. VAT).

5. The circumstances leading to the above mentioned variations are set out in the report that follows

COMMISSION INTO STATE CAPTURE

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LIST OF ANNEXURES

Annexure A: V.O No. 1: Mdima Civils Payment No. 1 – Grinrod Contract
Annexure B: V.O No. 1: Payment Certificate 3 (28/10/2015)

COMMISSION OF INQUIRY INTO STATE CAPTURE

1. BACKGROUND

ILISO Consulting t/a NAKO ILISO were appointed by by Mhlathuze Water for the Detailed Design, Contract Administration and Close Out stages for the Construction of a Second Circular 20ML Reservoir. The contract MW/28/2014 was tendered in June 2015 and awarded in September 2015 to SSO JV Vitatype.

ILISO Consulting t/a NAKO ILISO were requested to provide each variation and extra works orders individually on the 9 June 2017 in a standard format as presented in this report.

2 DEFINITIONS

For the purpose of clarity the following definitions are used:

2.1 VARIATION ORDERS

- Any instruction given which is required for the completion of the works as described in the Scope of Works.
- In terms of the GCOC, variations arise when the Engineer issues a written instruction that can:
  - (i) Increase or decrease the quantity of any work included in the Contract,
  - (ii) Omit any such work,
  - (iii) Change the character or quality of any such work,
  - (iv) Change the levels, lines, position and dimensions of any part of the Works,
  - (v) Execute additional work of any kind necessary for the completion of the Works, and
  - (vi) Change the specified or approved sequence or method of construction.
- On issuing the instruction the instruction becomes a "Variation order"
- In terms of (i) & (ii) "Remeasurement of quantities" could strictly be deemed as needing a VO but in the interests of practicality, providing that the Remeasurement entails work covered by tendered SOQ rates and contained in the Scope of Works, then a VO is not required.

2.2 EXTRA WORKS ORDER

Any instruction which is given for doing additional work not covered in the Scope of Works as set out in the Contract Document. The Engineer is in no way empowered to issue an Extra Works order **without prior written approval from the Employer.**

VARIATION ORDER 1 : ADDITIONAL SCOPE OF WORK

ITEM	PAYMENT REFERS	DESCRIPTION	UNIT	QUANTITY	RATE R	AMOUNT R	PREVIOUS QUANTITY	QUANTITY THIS MTH	QUANTITY TO DATE	AMOUNT TO DATE	% Complete
		BROUGHT FORWARD				1 883 751.88				1 883 751.88	100.0 %
1.5		ADDITIONAL SCOPE TO MDIMA CIVILS									
1 5 1		Supply and place G5 material at swampy section between railway line and Foskor entrance	m³	540	640.00	345 600.00	540	0	540	345 600.00	100.0 %
1 5.2		Geotechnical investigation for detection of water table	Sum	1	6 000.00	6 000.00	1	0	1	6 000.00	100.0 %
1 5.3		Exposing of existing services from Foskor fence line up to end of Phase 1b	m	320	240.00	76 800.00	320	0	320	76 800.00	100.0 %
TOTAL FOR VARIATION ORDER 1 CARRIED FORWARD TO SUMMARY						2 312 151.88				2 312 151.88	100.0 %

COMMISSION OF INQUIRY INTO STATE CAPTURE

PAYMENT SUMMARY

PROJECT: REPLACEMENT OF 740m LONG B-LINE (PHASE 1A)
CONTRACT NO: MW000188
CONTRACT:
CERTIFICATE NO: 004
CERTIFICATE DATE: 28 Jun 2016

SECTION	DESCRIPTION	CONTRACT AMOUNT	AMOUNT TO DATE	% Complete
1	PRELIMINARY AND GENERAL	R 1 048 360.00	R 1 408 060.00	134.3 %
2	PIPELINES	R 3 864 525.82	R 4 409 796.60	120.3 %
3	ROAD CROSSING (CULVERTS)	R 89 300.00	R 89 300.00	100.0 %
4	RAILWAY CROSSING	R 154 000.00	R 154 000.00	100.0 %
5	ANCILLARIES	R 23 000.00	R 23 000.00	100.0 %
A	NETT TOTAL	R 4 979 185.82	R 6 084 156.60	122.2 %

COMMISSION OF INQUIRY INTO STATE CAPTURE

VARIATION ORDER SUMMARY

PROJECT: REPLACEMENT OF 740m LONG B-LINE (PHASE 1A)
CONTRACT NO: MW000188
CONTRACT:
CERTIFICATE NO: 004
CERTIFICATE DATE: 28 Jun 2016

VO Number	DESCRIPTION	OMIT	ADD	VARIATION AMOUNT	AMOUNT TO DATE	% Complete
1	ADDITIONAL SCOPE OF WORK	R 0,00	R 2 312 151,88	R 2 312 151,88	R 2 312 151,88	100,0 %
	TOTAL	R 0.00	R 2 312 151.88	R 2 312 151.88	R 2 312 151.88	100.0 %

Variation Orders marked * are subject to Contact Price Adjustment

COMMISSION OF INQUIRY INTO STATE CAPTURE

MDIMA CIVILS MONTHLY OVERALL WORKER SCHEDULE

OVERALL PROJECT WORKER SCHEDULE (local labourers only)

MONTH	Put Number if Yes					Put Number if Yes				TOTAL EMPLOYEES	TOTAL PAID
						Women		Men			
	Female Head Household with Dependandants	Disabled	Semi-Skilled	Skilled	Un-Skilled	Over 35 yrs	35 yrs & under	Over 35 yrs	35 yrs & under		
JANUARY					8		1	5	6	12	14 300,00
FEBRUARY					8		1	5	6	12	36 072,80
MARCH					8		1	5	6	12	25 350,00
APRIL					8		1	5	6	12	20 080,00
MAY					8		1	5	6	12	32 115,00
JUNE					8		1	5	6	12	33 296,39
JULY											
AUGUST											
SEPTEMBER											
OCTOBER											
NOVEMBER											
DECEMBER											
Total	0			0	40		6	30	36	72	161 214,19

Signed: .....

Designation: MANAGER

Date: 28/06/2016

DD34-DCM-260

MDIMA CIVILS MONTHLY OVERALL WORKER SCHEDULE

OVERALL PROJECT WORKER SCHEDULE (local labourers only)

FORM 1

No.	Name of Local Labourer	Identity Number	Month Worker Started	Age	Tick if Yes					Place a tick in the box which				
					Female Head Household with Dependand	Disabled	Semi-Skilled	Skilled	Un-Skilled	Women: Over 35 yrs	Women: 35 yrs & under	Men: Over 35 yrs	Men: 35 yrs & under	
1	Sibusiso Duze	901223 5884 083	Mar'14	23					1				1	
2	Mboneni Cele	841201 6319 088	April'14	29					1				1	
3	Simphiwe Nsele	900312 5892 088	Aug'14	25					1				1	
4	Zama Dube	851111 5841 080	Oct'14	29					1		1			
5	Thabani Mkhize	790227 5628 087	May'15	36					1			1		
6	Sizwe Mpungose	790807 5926 086	May'15	36					1			1		
7	Wiseman Nene	870528 6017 088	May'15	28					1				1	
8	Mzwandile Mkhwanazi	890414 5905 084	May'15	26					1				1	
9	Sbusiso Ncube	800104 6099 081	Sep'15	35				1					1	
10	Moses Radebe	710228 6223 083	Oct'15	44				1				1		
11	Delani Ndwalane	750103 6171 080	Oct'15	40				1				1		
12	Mbongeni Mkhize	681024 5734 088	Oct'15	47				1				1		12
Total for this sheet					0	0	0	0	8	0	1	5	6	K) = G+H+I+J
Total from previous sheet														
Total carried forward					1	0	0	0	8	0	1	5	6	
					A	B	C	D	E	G	H	I	J	

Signed: .....

Designation: MEMBER

Date: 28/06/2016

DD34-DCM-261

MDIMA CIVILS MONTHLY OVERALL WORKER SCHEDULE

OVERALL PROJECT WORKER SCHEDULE (local labourers only)

FORM 1

No.	Name of Local Labourer	Identity Number	Month Worker Started	Age	Tick if Yes					Place a tick in the box which				
										Women		Men		
					Female Head Households with Dependand	Disabled	Semi-Skilled	Skilled	Un-Skilled	Over 35 yrs	35 yrs & under	Over 35 yrs	35 yrs & under	
1	Sibusiso Duze	901223 5884 083	Mar'14	23					1				1	
2	Mboneni Cele	841201 6319 088	April'14	29					1				1	
3	Simphiwe Nsele	900312 5892 088	Aug'14	25					1				1	
4	Zama Dube	851111 5841 080	Oct'14	29					1		1			
5	Thabani Mkhize	790227 5628 087	May'15	36					1			1		
6	Sizwe Mpungose	790807 5926 086	May'15	36					1			1		
7	Wiseman Nene	870528 6017 088	May'15	28					1				1	
8	Mzwandile Mkhwanazi	890414 5905 084	May'15	26					1				1	
9	Sbusiso Ncube	800104 6099 081	Sep'15	35				1					1	
10	Moses Radebe	710228 6223 083	Oct'15	44				1				1		
11	Delani Ndwalane	750103 6171 080	Oct'15	40				1				1		
12	Mbongeni Mkhize	681024 5734 088	Oct'15	47				1				1		12
Total for this sheet					0	0	0	0	8	0	1	5	6	K) = G+H+I+J
Total from previous sheet														
Total carried forward					1	0	0	0	8	0	1	5	6	
					A	B	C	D	E	G	H	I	J	

Signed:.....

Designation: Member

Date: 28/06/2016

DD34-DCM-262

MDIMA CIVILS MONTHLY OVERALL WORKER SCHEDULE

OVERALL PROJECT WORKER SCHEDULE (local labourers only)

MONTH	Put Number if Yes					Put Number if Yes				TOTAL EMPLOYEES	TOTAL PAID
						Women		Men			
	Female Head Households with Dependandants	Disabled	Semi-Skilled	Skilled	Un-Skilled	Over 35 yrs	35 yrs & under	Over 35 yrs	35 yrs & under		
JANUARY					8		1	5	6	12	14 300,00
FEBRUARY					8		1	5	6	12	36 072,80
MARCH					8		1	5	6	12	25 350,00
APRIL					8		1	5	6	12	20 080,00
MAY					8		1	5	6	12	32 115,00
JUNE					8		1	5	6	12	33 296,39
JULY											
AUGUST											
SEPTEMBER											
OCTOBER											
NOVEMBER											
DECEMBER											
Total	0			0	40	-	6	30	36	72	161 214,19

Signed:.....

Designation: MEMBER

Date: 28/06/2016

DD34-DCM-263

Adima Civils

Reg No: 2005/011949/23
VAT No: 4420220537

Cell: 072 063 6175
Fax: 086 529 0045
Email: xolani@adimacivils.co.za

44 Churston Road
Cowies Hill
Pinetown
3610

STATEMENT OF ACCOUNTS

Date : 28 June 2016

ATTENTION: ACCOUNTS DEPARTMENT

Customer: Mhlathuze Water-Amanzi
P O BOX 1265
RICHARDS BAY
3900
Tel No: 035 902 1000
Fax 035 902 1111
VAT No: 4230103352

Delivery Address: Mhlathuze Water-Amanzi
P O BOX 1265
RICHARDS BAY
3900
Tel No: 035 902 1000
Fax: 035 902 1111
VAT No: 4230103352

Date	Reference	Amount
28/06/2016	Invoice No: 2016/0005	R 141 906,80

90 days	60 days	30 days	Current
			R 141 906,80

Bank details

VAT No.:	4420220537
Account No:	1339529424
Bank :	Nedbank
Branch:	Pinetown
Branch code:	198765

COMMISSION OF INQUIRY INTO STATE CAPTURE

PURCHASE ORDER

MDIMA CIVILS-T
44 CHURSTON ROAD
PINETOWN
KZN
KWAZULU NATAL

Delivery address:
Mhlathuze Water
Corner of South Central Arterial and Battery Bank
Alton
KWAZULU NATAL
390

Purchase Order No: PO000016849-2

MHLATHUZE WATER

Private Bag X1047
Richards Bay
KWAZULU NATAL
3900
Telephone: +27 35 902 1000

VAT Registration 4230103352

Account No:	Order date
MW1562	07/05/2015

DELIVERY DATE	ITEM NO	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	AMOUNT (EXCL VAT)
05/05/2015	1481	MW000188 Extension For Mdima Civils on the appointment for the replacement of effluent pipes from foskor to grindrod -phase 1A	EACH	5,619,509.12	1.00	5 619 509.12
07/05/2015	1490	NS-WIP Retention	EACH	624,389.90	1.00	624 389.90

Purchase requisition number PR00022290

Purchase Order is subject to Mhlathuze Water's General Terms and Conditions of Purchase

Vat No 4230103352 must appear on all invoices for Mhlathuze Water. If it does not appear on the invoice, it is not classified as a Vat Invoice according to legislation and therefore Mhlathuze Water will be unable to pay the invoice. All A4 printed invoices not on pre-printed stationery must be signed off as proof of original. Electronic invoices are not accepted by Mhlathuze Water.

Total (excl VAT):	**6,243,899.02**
Total VAT:	**0.00**
Total (incl VAT):	**6,243,899.02**

For and on behalf of Mhlathuze Water	Signature :	
	Name :	

COMMISSION OF INQUIRY INTO STATE CAPTURE

Reg No: 2005/011949/23
VAT No: 4420220537

Cell: 072 693 5175
Fax: 086 525 0045
Email: ndabi@mdmpoli.co.za

44 Chelston Road
Ocean Hill
Pinetown
3610

STATEMENT OF ACCOUNTS

Date : 28 June 2016

ATTENTION: ACCOUNTS DEPARTMENT

Customer: Mhlathuze Water-Amanzi
P O BOX 1265
RICHARDS BAY
3900
Tel No: 035 902 1000
Fax: 035 902 1111
VAT No: 4230103352

Delivery Address: Mhlathuze Water-Amanzi
P O BOX 1265
RICHARDS BAY
3900
Tel No: 035 902 1000
Fax: 035 902 1111
VAT No: 4230103352

Date	Reference	Amount
28/06/2016	Invoice No: 2016/0005	R 141 906,80

90 days	60 days	30 days	Current
			R 141 906,80

Bank details:	
VAT No.:	4420220537
Account No:	1338529424
Bank :	Nedbank
Branch:	Pinetown
Branch code:	198765

COMMISSION OF INQUIRY INTO STATE CAPTURE

Mdlma Civils

Reg No: 2005/011949/23

Cell: 072 083 5175
Fax: 086 529 0045
Email: nolani@mdimaciv.ils.co.za

44 Churston Road
Cowies Hill
Pinetown
3610

Highflats Branch
Box 329
3306

VAT No: 4420220537

TAX INVOICE NO. 2016/0005

TO: Mhlathuze Water-Amanzi
P O BOX 1265
RICHARDS BAY
3900
VAT No: 4230103352

Tel: (035) 902 1000 Fax: (035) 902 1111

Date : 28-June-2016

Item	Description	Rate	Qty	Amount
1.	Work Completed to date	R 124 479,65	1	R 124 479,65
	Replacement of 740m long B-Line (Phase 1A)			
	MW000188			
			Sub-Total	R 124 479,65
			Vat	R 17 427,15
			Total	R 141 906,80

Signed: _____

Mdlma Civils Banking Details:

VAT No.:	4420220537
Account No:	1339529424
Bank :	Nedbank
Branch code:	198765

MHLATHUZE WATER

APPROVED	DATUMS 27/10/2016
RECOMMENDED	
GOEDGEKEUR	31/10/2016
APPROVED	DATES

31/10/16.

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: NAKO ILISO; CONTRACTOR: SSO JV VITATYPE; PROJECT NAME: 2ND CIRCULAR 20ML RESERVOIR; AMOUNT: R2 321 013.21

ANNEXURE N

Prepared by

MHLANGA INC
Attorneys & Conveyancers

1003B Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
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admin@mhlangainc.co.za

COMMISSION OF INQUIRY INTO STATE CAPTURE

Statement Enquiry

Date: 07/01/2016 Time: 12:30:49 PM

Account description:SSO/VITATYPE - NSEZI JOINT VEN
Account number:1115290814
Statement: 16

Date	Transactions	Debit	Credit	Balance	VAT # ENC *
10/12/2015	BROUGHT FORWARD			565,109.44	
11/12/2015	SSO/VITATYPE NSEZI JOINT		2,500,000.00	3,065,109.44	
11/12/2015	Mdima Civils cc	-2,405,413.69		659,695.75	
11/12/2015	Vitatype Muzi Loan 30/327	-300,000.00		359,695.75	
11/12/2015	CARRIED FORWARD			359,695.75	

Notice
Whilst every effort has been made to ensure that the information on this statement is accurate, Nedbank Limited takes no responsibility for any loss or damage suffered by any person as a result of their reliance upon the information contained in this statement and the contents should be verified against the final statement to be provided by Nedbank to the client.

- VAT is applicable for this transaction
* - Uncleared Effect (ENC) is applicable for this transaction

Profile name:STEFANUTTI STOCKS CIVIL KZN
Profile number:4000093017

User name:PETER MOODLEY
User ID:26

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: NAKO ILISO; CONTRACTOR: SSO JV VITATYPE; PROJECT NAME: 2ND CIRCULAR 20ML RESERVOIR; AMOUNT: R2 321 013.21

ANNEXURE O

Prepared by

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COMMISSION OF INQUIRY INTO STATE CAPTURE

From/Van:

SIPEZAKONKE ENGINEERING (PTY) LTD
COMPANY REG No: 2012/018770/07
P.O.BOX 1837
EMPANGENI
3880
CELL: 078 225 0309
FAX: 086 628 1841

VAT Reg. No./BTW Reg. nr.:

Date/Datum: 29/02/2016

TAX INVOICE
BELASTINGFAKTUUR

No. 0121

Order No./Bestelling nr.:

Account No./Rekening nr.:

Delivery Note No./Aflewering nota nr.:

Charge to/Debiteur naam:

Mr Xolani Shange
Mdima Civils
Pinetown, Durban

Quantity Hoeveelheid	Description/ Beskrywing	Unit Price/ Eenheidprys	Value/ Waarde
1	Work as per the agreement		R 230000.00
	PROCESSED		
	FNB: Acc. 62359017970		
	BRANCH: RICHARDSBAY		

E & O.E./S & V

Terms/Terme: 30 Days

Sub Total/Subtotaal:

VAT/BTW:

TOTAL/TOTAAL: R 230 000.00

Delivery Business Form

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: NAKO ILISO; CONTRACTOR: SSO JV VITATYPE; PROJECT NAME: 2ND CIRCULAR 20ML RESERVOIR; AMOUNT: R2 321 013.21

ANNEXURE P

Prepared by

MHLANGA INC.
ATTORNEYS & CONVEYANCERS

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COMMISSION OF INQUIRY INTO STATE CAPTURE

SearchWorks

Unit B4, Arden Grove, Montague Gardens
Tel: +27 86 044 3333, Fax: +27 21 555 3127
Website: http://www.searchworks.co.za

2012/018770/07

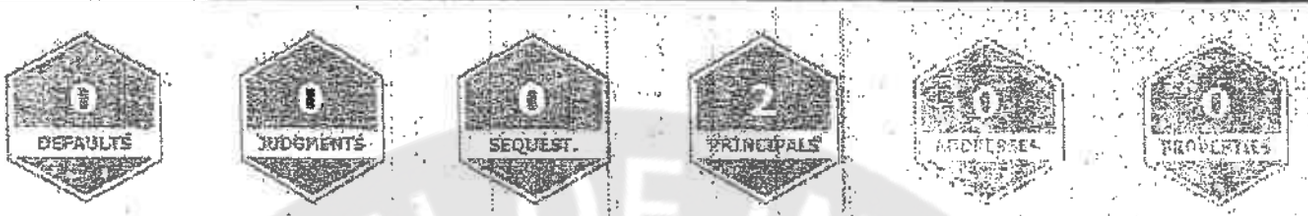
CSI Company Report

Search Information

Summary

Search Type	CSI COMPANY REPORT
Search Description	2012/018770/07
Reference	LONDIWE
Date	29/04/2019

Profile Summary



Detailed Information

Entity Details

Name	SIFEZAKONKE ENGINEERING
Short Name	-
Translated Name	-
Registration Number	2012/018770/07
Old Registration No.	-
Type	PRIVATE COMPANY (PTY) LTD
Short Type	(PTY) LTD
CIPC Company Act Type	COMPANY (REGISTERED ACCORDING TO NEW 2008 CO ACT)
Status	IN BUSINESS
Tax Number	9263157183
Type Date	02/02/2012
Registration Date	02/02/2012
Start Date	02/02/2012
Status Date	-
Principal Description	-
Details Withdrawn From Public	NO
Standard Industrial Classification	-
Financial Year End	FEBRUARY
Financial Effective Date	02/02/2012
Physical Address	WARD 1, KWANYUSWA LOCATION, IZINGOLWENI, KWA-ZULU NATAL, 4240
Postal Address	PO BOX 410, HARDING, HARDING, KWA-ZULU NATAL, 4680
Region	-
Country of Origin	-
Country	SOUTH AFRICA
Authorised Capital	-
Issued Capital	-
Authorised Shares	1000
Issued Shares	-
Form Received Date	-
Date on Form	-
Conversion Number	-

Provided by Google



NO IMAGE AVAILABLE



NO IMAGE AVAILABLE

Properties Currently Owned

No information available.

Properties Previously Owned

No information available.

Company Judgments

No information available.

Company Sequestrations

No information available.

Auditors(s)

Auditor Name	Profession Code	Start Date	Status
No information available.			

Active Principal(s)

Full Name	ID Number	Status	Appointed
BONGUMUSA SYDNEY KHESWA	8203045633080	ACTIVE	01/12/2017

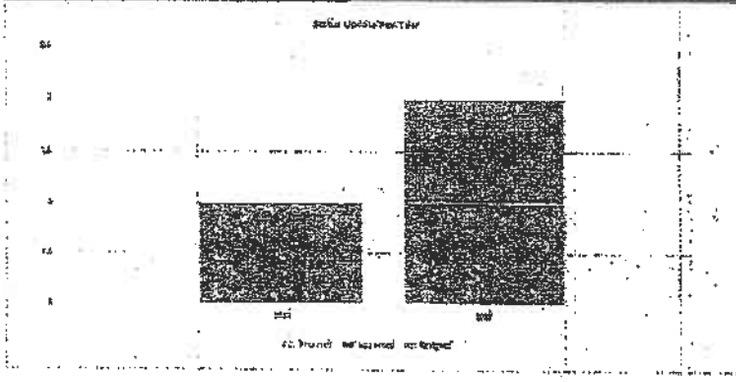
Resigned Principal(s)

Full Name	ID Number	Status	Appointed
SIFEZILE NONDUMISO PENELOPE KESWA	9010250360088	RESIGNED	02/02/2012

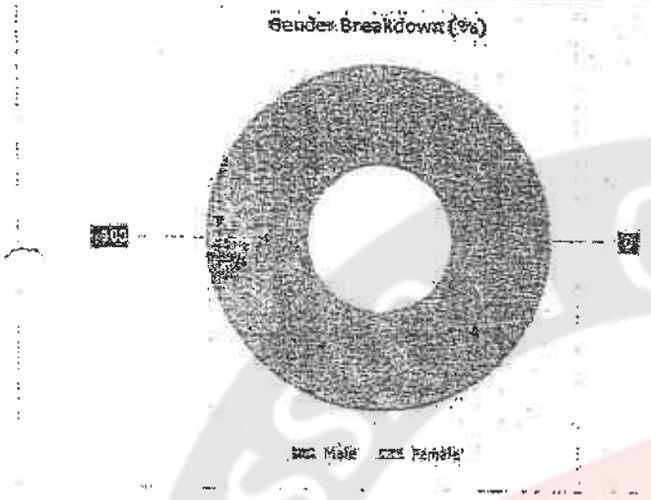
Deceased Principal(s)

Full Name	ID Number	Status	Appointed
No information available.			

Director Timeline



Director Gender



Principal(s)

Principal 1 of 2	
First Name	SIFEZILE NONDUMISO PENELOPE
Surname	KESWA
ID Number	9010250360088
Date of Birth	25/10/1990
Gender	FEMALE
Age	28
Residential Address	55 SIGMA CRESCENT, EMPANGENI, EMPANGENI, KWA-ZULU NATAL, 3880
Postal Address	P O BOX 1637, EMPANGENI, EMPANGENI, KWA-ZULU NATAL, 3880
Type	DIRECTOR
Status	RESIGNED
Appointment Date	02/02/2012
Resignation Date	01/12/2017
Member Contribution	0%
Member Size	0%

COMMISSION OF INQUIRY INTO STATE CAPTURE

Principal(s) (continued)

Principal 2 of 2

First Name	BONGUMUSA SYDNEY
Surname	KHESWA
ID Number	8203045633080
Date of Birth	04/03/1982
Gender	MALE
Age	37
Residential Address	WARD 1, KWANYUSWA LOCATION, IZINGOLWENI, KWA-ZULU NATAL, 4240
Postal Address	PO BOX 410, HARDING, HARDING, KWA-ZULU NATAL, 4680
Type	DIRECTOR
Status	ACTIVE
Appointment Date	01/12/2017
Resignation Date	-
Member Contribution	0%
Member Size	0%

Principal Association(s)

Company Name	Registration No.	Type	Status	Appointed	Membership
SIFEZILE NONDUMISO PENELOPE KESWA					
SIFEZAKONKE ENGINEERING	2012/018770/07	PRIVATE COMPANY (PTY) LTD	IN BUSINESS	02/02/2012	0%
BONGUMUSA SYDNEY KHESWA					
EMSENI HOLDINGS PRIMARY CO-OPERATIVE LIMITED	2015/003587/24	PRIMARY CO-OPERATIVE	IN BUSINESS	17/03/2015	0%
MURSA DEVELOPMENTS	2016/469899/07	PRIVATE COMPANY (PTY) LTD	DEREGISTRATION PROCESS	23/11/2016	0%
K2016286843 (SOUTH AFRICA)	2016/286843/07	PRIVATE COMPANY (PTY) LTD	DEREGISTRATION PROCESS	18/07/2016	50%
THE BUSINESS ZONE 1523	2006/095232/23	CLOSE CORPORATION (CC)	AR FINAL DEREGISTRATION	16/09/2006	33%
SIFEZAKONKE ENGINEERING	2012/018770/07	PRIVATE COMPANY (PTY) LTD	IN BUSINESS	01/12/2017	0%
SOUTHERN AMBITION 629	2005/007623/23	CLOSE CORPORATION (CC)	AR FINAL DEREGISTRATION	03/02/2006	50%
EMSENI HOLDINGS PRIMARY CO-OPERATIVE LIMITED	2015/003587/24	PRIMARY CO-OPERATIVE	IN BUSINESS	17/03/2015	0%

SIFEZILE NONDUMISO PENELOPE KESWA - Current Properties

No information available.

BONGUMUSA SYDNEY KHESWA - Current Properties

Property 1 of 1

Deeds Office	PIETERMARITZBURG
Property Type	SECTIONAL SCHEME
Erf Number	281
Scheme Name	SS KYALAMI
Scheme Number	51
Unit Number	-
Purchase Date	28/10/2013
Registration Date	23/01/2014
Purchase Price	R 600 000.00

SIFEZILE NONDUMISO PENELOPE KESWA - Previous Properties

No information available.

BONGUMUSA SYDNEY KHESWA - Previous Properties

No information available.

Principal Reputation

Case Number	Court	Type	Amount	Plaintiff	Attorney
No information available.					

Report Information

Date of Information	29/04/2019 11:41
Print Date	29-04-2019 11:48
Generated By	LONDIWE MHLANGA
Reference	LONDIWE
Report Type	CSI COMPANY REPORT

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COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: NAKO ILISO; CONTRACTOR: SSO JV VITATYPE; PROJECT NAME: 2ND CIRCULAR 20ML RESERVOIR; AMOUNT: R2 321 013.21

ANNEXURE Q

Prepared by:

MHLANGA INC
Attorneys & Conveyancers

10036 Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
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admin@mhlangainc.co.za

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE

DOCUMENT TITLE

DELEGATIONS POLICY

POLICY

The purpose of this Policy is to adopt a new set of delegations of authority within Mhlathuze Water.

BRIEF DESCRIPTION OF CHANGE

Amendments to Matters requiring Board Approval

APPROVAL

Approved by the full Board at its meeting of **20 May 2015**

DC MYENI
CHAIRPERSON

DATE: 20/05/2015

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1. PURPOSE

This Delegations Policy is established to define the limits of authority designated to specified positions of responsibility within Mhlathuze Water. The policy shall determine the types and maximum amounts, of the organisation obligations that may be approved by executives.

2. ROLES AND RESPONSIBILITIES

In terms of section 37, of the Water Services Act, No. 108 of 1997; a Water Board may delegate any operational powers to a Committee of the Board, its Chief Executive Officer and/or any of its employees.

The general powers and authority levels are approved by resolution of the Board. The Chief Executive Officer ("CEO") is authorised to delegate internal authority limits within these levels. The primary roles and responsibilities in relation to delegation of authority rest with the:

- Committee of the Board;
- Chief Executive Officer; and
- Staff with delegations.

The Chief Financial Officer ("CFO") is responsible for ensuring compliance with this policy.

3. BOARD RESOLUTION

3.1 The following contracts/actions require Board approval:

- Any acquisition of services which will result in service/business contracts of more than twelve months duration accounting for more than 2.5% of annual revenue or a value of R5 million and above; that is not part of the approved budget.
- Any acquisition of goods which will result in purchase contracts of more than twelve months duration accounting for more than 2.5% of annual expenditure costs; that is not part of the approved budget.
- Major litigation proceedings for damages in excess of R1 million;
- Other material contracts (e.g. related parties);
- Long term funding arrangements;
- Appointment of External and Internal Auditors;
- Investments in institutions other than Board approved institutions;
- Approval of the Tariff policy;
- New Projects and related tariffs for new customers (after recommendation by EXCO).
- Major capital projects and the budgets thereof; that is not part of the approved budget.
- Annual tariff increases; and
- Unresolved objections to tariffs from consumers.

3.2 The authority levels approved by the Board on 18 May 2015 are in Rand terms.

3.3 **Banking Signatories**

The following approval is required for:

- Agreements & contracts (including letters of intent) other than those noted in 3.1
- Payments (e.g. cheques, EFT, manual payments, guarantees)

- **Value rule for ABSA Business Integrator "A+A" or "A+B"**

A Level Signatories	Limits	B Level Signatories	Limits
Chief Executive Officer	Unlimited	General Manager Scientific Services	Unlimited
Chief Operations Officer	Unlimited	SnrManagement Accountant	Unlimited
Chief Financial Officer	Unlimited	Financial Accountant	Unlimited
General Manager Corporate Services	Unlimited	Cash Management Accountant	Unlimited

3.4 **Contracts**

Written contracts are mandatory for the following:

- Orders for goods and services which have a duration exceeding twelve months;
- Orders for construction, manufacture, goods and or services exceeding one million rand (R1 million), excluding VAT, except for once off purchases of capital goods (e.g. mobile equipment, machinery).

All agreements and contracts, (and any changes or variations to such agreements) other than approved purchase orders, must be routed to the Chief Executive Officer/ Company Secretary to ensure that they are correctly authorised and that the originals are filed as valuable documents.

4. **OPERATING COSTS (Refer to "DOA Signatory List")**

4.1 The internal authority limits for expenditures within approved operating cost budgets are:

Level of Management	Role	Authority Limits (R)
F	CEO	>Unlimited
E1	Head of Department	<5,0 million
D3	Manager	<2,0 million
C5-D3	Technologist//Engineers	<500,000
D2/C5	Project Managers/Superintendents	<100,000
D3/D2	Cost Centre Owners	<50,000

Note: The above limits do not override the annexure, "Delegation of Authority Signatory List" for this policy.

4.2 The internal authority of the CEO for emergency break-downs, outside budget is not limited. However the CEO will inform the Board at the first meeting after such an incident of the estimated costs and effect on services and how such costs will be recovered.

4.3 Where authority levels are delegated to employees below supervisor level this delegation of authority must be approved by the Head of Department Level.

4.4 The internal authority of the CEO for emergency cases, outside budget is not limited. However the CEO will ratify the Board at the first meeting after such an incident of the estimated costs, the effect on services or the environment and how such costs will be recovered.

4.5 The authority limits for credit notes and adjustments to customers are:

Role	Authority Limits (R)
CEO	<5,0 million
Chief Financial Officer	<500,000

All credit notes are required to be authorised by a Panel "A" signatory.

5. **CAPITAL EXPENDITURE (Refer to "DOA Signatory List")**

5.1 The Board has delegated the following authority limits for capital expenditure to the CEO:

	Authority Limits (R)
• Accumulated capital expenditure not in approved budget.	< 1 million

5.2 Scope changes, up to 10% of budget require the CEO's approval and all changes above 10% of budget require Board approval.

5.3 The authority limits for the purchase of goods and materials within an approved capital expenditure vote are as follows:

Level of Management	Role	Authority Limits (R)
F	CEO	Unlimited
E1	Head of Department	<5,0 million
D3	Manager	<2,0 million
C5-D3	Technologist//Engineers	<500,000
D2/C5	Project Managers/Superintendents	<100,000
D2	Project Manager	<50,000

6. SALE OF SCRAP

The authority limits for scrap sales (other than sales in terms of approved contracts) are:

Role	Authority Limits (R)
CEO	>1 million
Chief Financial Officer	<1 million

7. PURCHASE ORDERS

7.1 General

The signing of orders is in connection of approval limits as per Annexure C.

7.2 Purchase Order Variation

The authority limits on variations to purchase orders for operating and capital expenditure are:

Level of Management	Role	Authority Limits (R)
F	CEO	>1 million
E1	Heads of Departments'	<1 million

7.3 Contract Variation Interactions (CVI)

A site instruction issued by a clerk of works or superintendent/engineer is required for any order variation together with a CVI, the number of which is to be referenced in the order amendment. The CVI's should be compiled and authorised as per paragraph 7.2 prior to the work commencing.

8. DISPOSAL OF ASSETS

The limits authority for disposal of assets must be approved as follows:

Level of Management	Role	Authority Limits (R)
	Board	7 million and above
F	CEO	Between 1 and 7 million
E1	Chief Financial Officer	<1 million

In addition, the disposal of fixed plant assets requires the approval of the Chief Operations Officer ,Operations Manager and Maintenance Manager. The disposal of mobile equipment assets requires the approval of the relevant Managers.

9. DONATIONS

All donations of company assets are required to be approved by the Executive Committee (EXCO), which is chaired by the CEO. All donations of such assets to a single beneficiary exceeding R20 000 are to be approved by the Board.

10. RESTRICTED APPROVAL

Certain commodities that are designated as "restricted items" require the additional approval of the officials listed in Annexure "A".

11. STORES INVENTORY ADJUSTMENTS

All loss adjustments for Stores inventory must be approved as follows:

Level of Management	Role	Authority Limits (R)
F	CEO	>5 million
E1	Chief Financial Officer	<5 million

12. DISPOSAL OF ROTABLE/REPAIRABLE ASSETS THAT ARE TO BE REPLENISHED

The authority limits for the disposal of rotable/repairable assets that are to be replenished are:

Level of Management	Role	Authority Limits (R)
F	CEO	<1 million
E1	Chief Financial Officer	<500,000

An instruction for disposal of all rotable/repairable assets must be sent to the Supply Chain Management so that replenishment can be initiated. The SCM Manager must submit a monthly report to the Chief Financial Officer on the net impact on the inventory balance on rotables/repairables replenished.

13. HUMAN RESOURCES

13.1 The following matters require Board approval:

- Appointment of the CEO;
- Appointment of Heads of Departments (after recommendation by the CEO);
- General budget salary increases;
- Executive Management salary adjustments (after recommendation by the Board Committee responsible for remuneration);
- Approval of the Mhlathuze Water's organogram and the establishment and disestablishment of positions.

13.2 Appointments of other positions within the approved budget are motivated by each Head of Department.

13.3 Salary adjustments of all other staff (excluding Exco) are approved by the CEO.

13.4 Change of Job titles and Job grading (excluding Exco) are approved by the CEO

14. AUTHORISATON OF TRAVEL AND APPROVAL OF TRAVEL CLAIMS

Authorisation of travel for, and travel expenditure claims of -

- all employees other than the CEO and Heads of Departments' shall be approved by the Head of Department together with GM: Corporate Services
- Heads of Departments' shall be approved by the CEO;
- The CEO and Board members shall be approved by the Chairperson of the Board;
- The Chairperson of the Board shall be approved by delegated authority (DWS).

15. LITIGATION

15.1 Actions and applications by Mhlathuze Water, other than those in noted in 3.1 must be approved by the

CEO	≤ R1million
Board	> R1million

15.2 The defence of actions and applications against Mhlathuze Water, other than those noted in 3.1, are subject to the approval of the Chairperson of the Board or the CEO.

16. SUPPLY CHAIN MANAGEMENT POLICIES

Awarding of Tenders/ Bids for goods and services exceeding R500, 000 (VAT Inclusive);
The Bid Adjudication Committee will recommend all tenders/bids to be awarded to the CEO to approve and appoint the bidder.

Reference to the Supply Chain Management Policy should be made for further delegations not included in this policy.

17. INSURANCE

The authority limits for insurance claims must be approved as follows;

Level of Management	Role	Authority Limits (R)
F	CEO	>5,0 million
E1	Head of Department	<5,0 million
D3	Manager	<2,0 million
C5-D3	Technologist/Engineers/Technicians	<500,000
D2/C5	Project Manager/Superintendents	<100 000
C5	Assets Accountant	<50,000

18. ACTING DELEGATIONS

The authority limits for all employees delegated to "Act" in a position senior to their current position must be amended/ increased on the IT System (i.e. Dynamic AX) to correspond with the senior employee's authority limits per Delegations Policy and DOA Signatory List.

The Change Control Form: Authority Limits (Annexure B) should be completed and authorised by the Chief Financial Officer (CFO).

19. MOVEMENT OF FUNDS

- Movement of funds between cost centre's requires the approval of the HOD.
- Movement of funds within the scheme in consultation with the CEO.
- Movement of funds between section 29 and 30 requires the approval of the Board.

20. REVIEW HISTORY

REVIEW HISTORY			Policy No. POL 010	Rev No. 04
REV NO.	DATE	PAGE No.	DETAILS	
03	27 May 2011	3	Bank signatory and value rules	
03	27 May 2011	4	Added 4.5 internal authority of the CEO	
04	24 October 2013	All	Delegation of Authority Document	
05	18 May 2015	All	Delegation of Authority Document	

REVISION AND RECOMMENDATION			
POSITION	NAME	DATE	SIGN
Chief Financial Officer: (Custodian and Administrator)	Mr BS Ndaba		

COMMISSION OF INQUIRY INTO STATE CAPTURE

Annexure A

COMMODITIES THAT ARE CLASSIFIED AS RESTRICTED AND REQUIRE ADDITIONAL APPROVAL

The following types of commodity are considered 'restricted items' and require further approval as indicated below before any purchase can be committed:

General Manager Corporate Services	- Cameras Office equipment such as videos, hi-fi's Telephones Televisions (NB. require licence) Safety equipment and clothing
Relevant HOD	- Cellular Phones
Manager IT	- Computer Equipment Computer Software Photocopiers, scanners and faxes
Maintenance Manager/Chief Operations Officer/Operations Manager	- Electrical Equipment High Tension Equipment
Maintenance Manager/Chief Operations Officer/Operations Manager	Instruments
CEO	- Vehicles
Operations Manager/Chief Operations Officer	- Mobile Communication Units (Radios) Chemicals
General Manager Corporate Services /Maintenance Manager	Fire Equipment

Annexure B

MHLATHUZE

CHANGE IN CONTROL FORM: AUTHORITY LIMITS

System User Details

First Name: _____ Initials: _____

Surname: _____ Title: _____

Employee Number: _____ Email Address: _____

Employees Job Title: _____ Management Level: _____

Department: _____ HOD: _____

Current Authority Limits: Capital Budget: _____

Operational Budget: _____

Acting Details

Acting Job Title: _____ Management Level: _____

Department: _____ HOD: _____

Acting Authority Limits: Capital Budget: _____

Operational Budget: _____

Start Date: _____ End Date: _____

Approved By (HOD): _____ Date: _____

Signature: _____

Authorised By (CFO): _____ Date: _____

Signature: _____

Received and Implemented By (IT Manager): _____

Signature: _____ Date: _____

Annexure C

MHLATHUZE

DELEGATED SIGNING AUTHORITY

- **Chief Executive**

Operational Budget/ Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
Chief Executive Officer	F	Unlimited
Company Secretary	D3	500 000.00
Risk Manager	D3	500 000.00
Internal Auditor		500 000.00

Capital Budget/ Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
Chief Executive Officer	F	Unlimited
Company Secretary	D3	500 000.00
Risk Manager	D3	500 000.00
Internal Auditor		500 000.00

- **Finance**

Operational Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
Chief Financial Officer	E1	Unlimited
Financial Controller	D3	500 000.00
Supply Chain Manager	D3	500 000.00
Snr Management Accountant	D3	500 000.00
Financial Accountant	D2	50 000.00
Management Accountant	D2	50 000.00
SCM Specialist	C5	50 000.00
Assets Accountant	C5	50 000.00
Buyer	C2	5000.00
Buyer	C2	5000.00
Buyer	C2	5000.00

Capital Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
Chief Financial Officer	E1	Unlimited
Financial Controller	D3	500 000.00
Supply Chain Manager	D3	500 000.00
Snr Management Accountant	D3	500 000.00
Financial Accountant	D2	50 000.00
Management Accountant	D2	50 000.00
SCM Specialist	C5	50 000.00
Assets Accountant	C5	50 000.00
Buyer	C2	5000.00
Buyer	C2	5000.00
Buyer	C2	5000.00

- **Corporate Services**

Operational Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
General Manager Corporate Services	E1	5 000 000.00
IT Manager	D3	100 000.00
HR Manager	D3	100 000.00
PR Manager	D2	100 000.00
Training & Development Specialist	D1	50 000.00
Health & Safety Specialist	D1	50 000.00

Capital Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
General Manager Corporate Services	E1	5 000 000.00
IT Manager	D3	100 000.00
HR Manager	D3	100 000.00
PR Manager	D2	100 000.00
Training & Development Specialist	D1	50 000.00
Health & Safety Specialist	D1	50 000.00

- **Operations, Maintenance & Projects**

Operational Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
Chief Operations Officer	E1	5 000 000.00
Maintenance Manager	D4	2000 000.00
Operations Manager	D3	2000 000.00
Program Manager	D4	2000 000.00
Planning & Development Manager	D3	500 000.00
Project Manager	D2	50 000.00
Project Manager	D2	50 000.00
Project Manager	D2	50 000.00
Process Technologist (Nsezi)	D1	50 000.00
Superintendent (Pumpstation)	C5	50 000.00
Superintendent (Nsezi)	C5	50 000.00
Maintenance Supervisor	C5	50 000.00
Supervisory Artisan (Nsezi)	C4	50 000.00
Superintendent (Nsezi)	C4	50 000.00
Superintendent (Weir)	C4	50 000.00

Capital Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
Chief Operations Officer	E1	5 000 000.00
Maintenance Manager	D4	2 000 000.00
Operations Manager	D3	2 000 000.00
Program Manager	D4	2 000 000.00
Planning & Development Manager	D3	500 000.00
Project Manager	D2	50 000.00
Project Manager	D2	50 000.00
Project Manager	D2	50 000.00
Process Technologist (Nsezi)	D1	50 000.00
Superintendent (Pumpstation)	C5	50 000.00
Superintendent (Nsezi)	C5	50 000.00
Maintenance Supervisor	C5	50 000.00
Supervisory Artisan (Nsezi)	C4	50 000.00
Superintendent (Nsezi)	C4	50 000.00
Superintendent (Weir)	C4	50 000.00

- **Scientific Services**

Operational Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
GM: Scientific Services	D4	5 000 000.00
Environmental Manager	D3	100 000.00
Quality Officer	D1	100 000.00
Chemist	C5	50 000.00
Microbiologist	C5	50 000.00

Capital Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
GM: Scientific Services	D4	5 000 000.00
Environmental Manager	D3	100 000.00
Quality Officer	D1	100 000.00
Chemist	C5	50 000.00
Microbiologist	C5	50 000.00

COMMISSION OF INQUIRY
INTO STATE CAPTURE

DM5

STATEMENT UNDER OATH

I, the undersigned

MTHOKOZISI PIUS DUZE

Do hereby make oath and say that:

1.

I am an adult male person currently employed by Mhlathuze Water as the Chief Executive Officer with its address at Cnr of South Central Arterial and Battery Bank Roads, Alton, Richards Bay, KwaZulu-Natal.

2.

The facts deposed to herein are within my personal knowledge and best belief true and correct unless the context indicates otherwise.

3.

A Forensic Investigation was conducted by a firm of attorneys, Mhlanga Incorporated and a report thereof was submitted to me. The report revealed acts of fraud and/or money laundering and/or corruption committed by various individuals and companies against Mhlathuze Water. The amounts involved in the alleged crime are **R2 200 000.00** and **R1 923 489.92.**

R4 203 489 92.

In a summary, the offence was committed in the following manner:

4.1 Isibonelo Construction CC with registration numbers 1997/051620/23 ("Isibonelo"), a company with no contract with Mhlathuze Water, issued two (2) invoices for **R2 280 000.00** and **R1 993 435.01** to SSO JV.

4.2 SSO JV, a Joint Venture between Stefanutti Stocks (Pty) Ltd (2003/022221/07) and Oro Management Services (2000/003744/23), was a contractor appointed to do the construction work for Mhlathuze Water in the Nsezi WWTW & Associated Bulk Infrastructure of a 20ML Reservoir, project number MW/15/2014.

4.3 SSO JV paid the **R2 280 000.00** and **R1 993 435.01** to Isibonelo.

4.4 SSO JV claimed payment of the monies it paid to Isibonelo from Mhlathuze Water as if it was due to additional work done by them on site, a Variation Order ("VO"). They also added 10% mark-up on their claim;

4.5 Hatch-Goba who were the Consulting Engineers supervising SSO JV on site on behalf of Mhlathuze Water approved payment of the VO by SSO JV as if SSO JV had done additional work on site to the value of those two amounts plus 10% mark-up;

2020-04-05

4.6 Mr Mboniseni Majola and Ms Andile Ngwane who were employed by Mhlathuze Water as Program and Project Managers respectively authorized payment of the VOs to SSO JV;

4.6 Mr Sibusiso Makhanya was the CEO of Mhlathuze Water at the time and he, similarly, authorized the payment of both amounts;

4.6 All the people involved in this crime knew that Isibonelo's invoices were fraudulent because Isibonelo did not do any work to deserve any payment. They also knew that SSO JV had done no additional work to claim the money back from Mhathuze Water by way of a VO.

5.

In terms of the Public Finance Management Act 1 of 1999, I am required to report any criminal conduct which is brought to my attention to the Police, hence this statement.

6.

The people and companies implicated in the commission of this crime are the following:

6.1 MR SIBUSISO MAKHANYA, ID NUMBER 710521 5363 086;

6.2 MR MBONISENI MAJOLA, ID NUMBER 750815 5415 081;

6.3 MS ANDILE NGWANE, ID NUMBER 761124 0326 089;

6.4 STEFANUTTI STOCKS (PTY) LTD;

6.5 ANY OF THE DIRECTORS OF STEFANUTTI STOCKS;

6.6 ORO MANAGEMENT SERVICES;

6.7 ANY OF THE DIRECTORS OF ORO MANAGEMENT SERVICES;

6.8 HATCH GOBA (now known as "HATCH");

6.9 ANY OF THE DIRECTORS OF HATCH GOBA;

6.10 ISIBONELO CONSTRUCTION (PTY) LTD; and

6.11 ALLISON MBUKENI ZAKWE (sole director of Isibonelo Construction).

7.

I request the police to investigate this matter further and take all steps necessary to bring the perpetrators to book. A copy of the Forensic Report is attached hereto marked "A".

DEPONENT

I hereby certify that the Deponent has acknowledged that he knows and understands the contents of this Affidavit that was duly sworn to and signed at **RICHARDS BAY** before me on this the **8TH** day of **APRIL 2020**, the Regulations contained in Government Notices Nos. R1258 of the 21st July 1972 and R1648 of the 16th August 1977, as amended, having been complied with.

COMMISSIONER OF OATHS

2020-04-08

"A"

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO NSEZI BALANCING RESERVOIR PROJECT CONTRACTOR: SSO JOINT VENTURE RE: R2 200 000.00 AND R1 923 489.92 IRREGULAR EXPENDITURE

MAY 2019

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

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RECEIVED
LEGAL DEPARTMENT
DATE: 14/05/2019
SD Chuttoo

MHLATHUZE
WATER • AMANZI

INVESTIGATION REPORT INTO UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE

PROJECT NAME:	NSEZI BALANCING RESERVOIR PROJECT
CONTRACTOR:	SSO JOINT VENTURE
CONSULTING ENGINEER:	HATCH GOBA
AMOUNTS:	R2, 200,000.00
	R1, 923,489.92

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER

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COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER

1. DISTRIBUTION LIST

This report is confidential and is to be distributed only to the following persons, unless specific permission is granted by the Chief Executive of Mhlathuze Water.

NO	NAME	INSTITUTION	DESIGNATION	NO OF COPIES
1.	Mr M P Duze	Mhlathuze Water	Chief Executive Officer	1

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER

2 ANNEXURES

The following annexures have been attached and should be read together with this report

ANNEXURE REFERANCE	DETAILS
ANNEXURE 'A'	Letter of appointment for Hatch Goba (Pty) Ltd dated 23 December 2013
ANNEXURE 'B'	Letter of Appointment for SSO Joint Venture dated 11 March 2015
ANNEXURE 'C'	Isibonelo Construction CC invoice dated 30 September 2015
ANNEXURE 'D'	Email attaching invoice from Nishal Ramsaran dated 02 November 2015
ANNEXURE 'E'	Email reminder from Nishal Ramsaran to A. Ngwane dated 23 October 2015
ANNEXURE 'F'	Emails from Andile Ngwane to Nishal Ramsaran dated 23 October 2015 – regarding the payment
ANNEXURE 'G'	Email from Nishal Ramsaran to Mboniseni Majola dated 28 October 2015 – regarding negotiation of

	mark-up
ANNEXURE 'H'	Email response from Mr. Majola dated 28 October 2015
ANNEXURE 'I'	Proof of Payment of R2, 280,000.00 to Isibonelo Construction cc by SSO Joint Venture
ANNEXURE 'J'	Variation Order number three (3) dated 5 August 2016
ANNEXURE 'K'	Payment Certificate Number eight (8) dated 23 October 2015
ANNEXURE 'L'	Isibonelo Construction CC invoice dated 05 December 2015
ANNEXURE 'M'	Email from Mr. Reddy to Mr. Woodburn dated 02 February 2016 attaching the invoice
ANNEXURE 'N'	Proof of Payment of R1,993,435.00 to Isibonelo Construction cc by SSO Joint Venture
ANNEXURE 'O'	Variation Order number seven (7) dated 5 August 2016
ANNEXURE 'P'	Payment Certificate number twelve (12) dated 23 February 2016

ANNEXURE 'Q'	Letter from Hatch Goba's Attorneys dated 4 August 2017 with Hatch Goba's version
ANNEXURE 'R'	Letter from Stefanutti's Attorneys dated 8 August 2017 with Stefanutti's version
ANNEXURE 'S'	CICP Company search for Isibonelo Construction CC
ANNEXURE 'T'	CICP Director search for Alison Mbukeni Zakwe who is the sole director of Isibonelo
ANNEXURE 'U'	MW Delegation of Authority Policy dated 20 May 2015

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER - AMANZI

3. KEY PERSONS

NO	NAME	DESIGNATION	ABBREVIATED NAME
1.	ANDILE NGWANE	FORMER PROJECT MANAGER: MW	MS NGWANE
2.	MBONISENI MAJOLA	FORMER PROGRAM MANAGER: MW	MR MAJOLA
3.	JOHN WOODBURN	DIRECTOR: STEFANUTTI	MR WOODBURN
4.	SATHA REDDY	PRINCIPAL TECHNOLOGIST: HATCH GOBA	REDDY
5.	NISHAL RAMSARAN	ENGINEER: HATCH GOBA	RAMSARAN
6.	SIBUSISO MAKHANYA	FORMER CHIEF EXECUTIVE OFFICER: MW	MR MAKHANYA
7.	M P DUZE	CHIEF EXECUTIVE OFFICER: MW	MR DUZE

COMMISSION OF INQUIRY INTO STATE CAPTURE

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4. ABBREVIATIONS

FULL NAME	ABBREVIATION
ACCOUNTING OFFICER	AO
CHIEF EXECUTIVE OFFICER	CEO
CONSTRUCTION INDUSTRY DEVELOPMENT BOARD	CIDB
DELEGATION OF AUTHORITY POLICY	DOA
MHLATHUZE WATER	MW
PUBLIC FINANCE MANGEMENT ACT	PFMA
PREVENTION OF ORGANIZED CRIME ACT	POCA
VARIATION ORDER	VO

MHLATHUZE WATER

5. APPLICABLE LEGISLATION AND INTERPRETATION

5.1 Public Finance Management Act 1 of 1999 (PFMA)

(i) Responsibilities of an Accounting Officer of a Public Entity

5.1.1 Section 83(3) provides that an Official of a Public Entity to whom a power or duty is assigned in terms of section 56 commits an act of Financial Misconduct if that Official willfully or negligently fails to exercise that power or perform that duty.

5.1.2 Section 83(4) provides that Financial Misconduct is a ground for dismissal or suspension of, or other sanction against, a member or person referred to in subsection (2) or (3) despite any other legislation.

5.1.3 Section 86(1) provides that an Accounting Officer is guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding five years if that Accounting Officer willfully or in grossly negligent way fails to comply with a provision of Section 38, 39 or 40.

COMMISSION OF INQUIRY INTO STATE CAPTURE

(ii) Responsibilities of an Official in a Public Entity

5.1.4 Section 57provides that an official in a public entity must ensure that the system of Financial Management and Internal Control established for that public entity is carried out within the area of responsibility of that official.

5.1.5 An official in a Public Entity is further more responsible for the effective, efficient, economical and transparent use of financial and other resources within that official's area of responsibility.

5.1.6 An official in a Public Entity must take effective and appropriate steps to prevent, within that official's area of responsibility, any irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due.

5.1.7 An official in a Public Entity must comply with the provisions of this Act to an extent applicable to that official, including any delegations and instructions in terms of Section 56(3).

MHLATHUZE WATER

5.2 Treasury Regulations Promulgated under PFMA

5.2.1 Clause 8.1.1 of the Treasury Regulations provides that the Accounting Officer of an institution must ensure that internal procedure and internal control measures are in place for payment approval and processing.

5.2.2 Clause 9.1.1 of the Treasury Regulations provides that the Accounting Officer must exercise all reasonable care to prevent and detect unauthorized, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of Financial and Risk Management.

5.3 Prevention of Organised Crime Act No.121 of 1998 ('POCA)

5.3.1 The general money laundering offences are committed when certain acts are performed in respect of the "proceeds of unlawful activities". This phrase is defined in section 1 of POCA as any property or any service, advantage, benefit or reward which was derived, received or retained in connection with or as a result of any unlawful activity carried on by any person. In addition, the definition makes it clear that the proceeds could have been derived, directly

or indirectly, in South Africa or elsewhere, at any time before or after the commencement of POCA and that it includes any property representing such property.

5.3.2 **"Property"** is defined broadly as money or any other movable, immovable, corporeal or incorporeal thing. It also includes any rights, privileges, claims, securities and any interest in, and all proceeds of, such property.

5.3.3 **"Unlawful activity"** is any conduct which constitutes a crime or which contravenes any law irrespective of whether or not such conduct occurred before or after the commencement of POCA and whether it occurred in South Africa or elsewhere.

5.3.4 **POCA creates three main general money laundering offences:**

5.3.4.1 Firstly, a person who knows or ought reasonably to have known that property is or forms part of the proceeds of unlawful activities, commits an offence in terms of section 4 if he enters into any agreement, arrangement or transaction (whether legally enforceable or not) in connection with the property; or performs any other act in connection with the property, which has the effect or is likely to have the effect:

5.3.4.2 Of concealing or disguising the nature, source, location, disposition or movement of the property or the ownership of the property or any interest in the property; OR

5.3.4.3 Of enabling or assisting any person who committed an offence to avoid prosecution or to remove or diminish any property acquired as a result of an offence.

5.3.4.4 Secondly, a person commits an offence in terms of section 5 if he knows or ought reasonably to have known that another person has obtained the proceeds of unlawful activities and enters into any transaction, agreement or arrangement in terms of which:

5.3.4.5 the retention or control by or on behalf of that other person of the proceeds of unlawful activity is facilitated; or

5.3.4.6 The proceeds are used to make funds available to that person, to acquire property on his behalf, or to benefit him in any other way. Thirdly, a person who acquires, uses or possesses property and who knows or ought reasonably to have known that it is or forms part of the proceeds of

unlawful activities of another person, commits an offence under section 6.

5.3.4.7 The offences under sections 4, 5 and 6 can only be committed by a person who knows or ought reasonably to have known that the property concerned constituted the proceeds of unlawful activities

5.4 Construction Industry Development Board Act No. 32 of 2000 (CIDB Act)

5.4.1 Section 5 of the CIDB Act empowers the CIDB to establish a Code of Conduct for all construction related procurements and all participants involved in the procurement process.

5.4.2 Section 27 of the CIDB Act provides that the Code of Conduct applies to all construction-related procurement and all participants involved in the procurement processes, from the application for registration as a contractor, through to the tender process and the registration and completion of a project, including participation in the best practice project assessment scheme and the best practice contractor recognition scheme.

5.4.3 Section 28 of the CIDB Act empowers the CIDB to investigate any complaint by any person who is aggrieved by an action or omission in terms of the Code of Conduct.

5.4.4 Section 29 provides that the CIDB can institute a formal enquiry against any party found to have breached its Code after satisfying themselves of the investigation mentioned in section 28.

5.5 **Code of Conduct for all Parties Engaged in Construction Procurement (CIDB Code of Conduct)**

5.5.1 In terms of the CIDB Code of Conduct promulgated in terms of section 5 of the CIDB Act all parties engaged in construction procurement should in their dealings with each other:

5.5.1.1.1 behave equitably, honestly and transparently;

5.5.1.2 discharge duties and obligations timeously and with integrity;

5.5.1.3 Comply with all applicable legislation and associated regulations, etc.

MHLATHUZE WATER

5.5.2 The Code obliges the Agent (Consultant) to strictly observe the Code of Conduct laid down by the body governing his profession.

5.5.3 The Code provides that the contractor shall:-

5.5.3.1 Undertake the contract with the objective of satisfying the requirements of the employer by observing the spirit, as well as complying with the letter of the contract, in pursuit of this objective, cooperate with all the other parties in the procurement process.

5.5.3.2 Not to engage in unfair or unethical practices in dealings with subcontractors.

5.5.3.3 Not to make spurious claims for additional payment or time.

5.5.3.4 Not to engage in collusive practices that have direct adverse impacts on the cost of the project for the employer.

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER

5.6 **National Society of Professional Engineers: Code and Ethics for Engineers.**

5.6.1 The code of ethics for engineers prohibits engineers from aiding or abating the unlawful practice of engineering by a person or a firm.

5.6.2 the code further obliges engineers having knowledge of any violation of the code to report same to the appropriate professional bodies and when relevant also to public authorities and cooperate with the proper authorities in furnishing such information or assistance as may be required.

5.6.3 Engineers shall not permit the use of their name or associate in business ventures with any person or firm that they believe is engaged in fraudulent or dishonest enterprise.

5.7 **Delegation of Authority Policy**

5.7.1 Clause 7.2 of the Delegations Policy of 20 May 2015 provides that a purchase order variation for operation and capital expenditure can only be signed and or authorized in the following respect:

(i) Above R1m by CEO;

(ii) Less than R1m by Heads of Departments.

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MHLATHUZE WATER

6. EXECUTIVE SUMMARY

6.1 BACKGROUND AND INVESTIGATION SCOPE

6.1.1 Mhlathuze Water was presented with two Variation Orders from Stefanutti Stocks Civils KZN.

6.1.1.1 The first is Variation Order number Three (3) which is dated 05 August 2016 for an amount of R2, 200, 000-00.

6.1.1.2 The second is Variation Order number Seven (7) which is dated August 2016 for an amount of R1, 923,489-92.

6.1.2 Mhlathuze Water appointed Mhlanga Incorporated to conduct an investigation into the source of the Variation Orders that were paid to Stefanutti Stocks Civils KZN by Mhlathuze Water. This followed a finding by the Auditor General that payment of these Variation Orders amounted to an irregular, fruitless and wasteful expenditure.

6.1.3 The following contract numbers formed part of the investigation:

(a) MW/15/2014

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(b) MW/12/2015

(c) MW/13/2015

6.1.4 We found that Isibonelo Construction, a non-party to the project submitted various invoices to MW. Miss A Ngwane and Mr M Majola signed the invoices to recommend and approve respectively. The invoices were forwarded to the service providers **(HATCH GOBA and STEFANUTTI STOCKS)** to pay Isibonelo. **STEFANUTTI STOCKS** paid Isibonelo's invoices and claimed back their money from MW as Variation Orders plus a 10% mark-up or handling fee.

6.1.5 The Variation Orders were signed by **HATCH GOBA** as the Consulting Engineers, Miss A Ngwane and Mr M Majola of MW as recommender and approver respectively. The VOs were paid by MW.

6.1.6 Our findings are that:-

6.1.6.1 The invoices from Isibonelo were fraudulent;

6.1.6.2 The request for payment of Isibonelo's invoices by MW officials was in perpetuation of fraud;

6.1.6.3 The payment of Isibonelo's invoices by **STEFANUTTI STOCKS** was fraudulent;

6.1.6.4 The claiming of the monies paid to Isibonelo by **STEFANUTTI STOCKS** as VOs was fraudulent;

6.1.6.5 The approval of the VOs by **HATCH GOBA** and MW officials was similarly fraudulent;

6.1.6.6 The payment of these VOs by MW was fraudulent, and amounted to unauthorized, irregular, fruitless and wasteful expenditure; and

6.1.6.7 That Mr Makhanya as the CEO of MW at the time committed financial misconduct by allowing these payments to go through.

6.1.7 We recommend that:-

6.1.7.1 This matter be reported to the SAPS for a criminal investigation;

6.1.7.2 **HATCH GOBA**, A Ngwane and M Majola be reported to the Engineering body for disciplinary action to be taken against them;

6.1.7.3 **HATCH GOBA and STEFANUTTI STOCKS** be reported to National Treasury to be blacklisted from doing any future work with the State;

6.1.7.4 **STEFANUTTI STOCKS** be reported to the CIDB for disciplinary action to be taken against them; and

6.1.7.5 Subject to the Provisions of the Prescription Act, MW must institute civil action to recover monies paid in this transaction from all the service providers and officials of MW jointly and severally the one paying the other to be resolved.

MHLATHUZE WATER

7. OBJECTIVES OF THE INVESTIGATION

7.1 To identify any possible fraud, corruption or any other crime or any unlawful and unethical conduct that may be associated with the commission or omission in this transaction;

7.2 To ascertain the actual prejudice or potential prejudice that may have been suffered by Mhlathuze Water as a result of its payment of these Variation Orders.

7.3 To identify any possible irregularities in the approval of these Variation Orders.

7.4 To ascertain if indeed SSO Joint Venture performed additional work warranting Variation Orders.

7.5 To identity all persons involved in the approval and payment of the Variation Orders.

7.6 To ascertain the actual prejudice that was suffered by Mhlathuze Water as a consequence of the approval and payment of the Variation Orders.

7.7 To determine weaknesses in the internal systems and controls, and in procedure of approving variation orders in Mhlathuze Water.

7.8 To recommend to the CE options of remedial action or consequence management to prevent the recurrence of similar irregularities or breaches of internal systems in approving Variation Orders.

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER - AMANZI

8. PROCEDURES PERFORMED

8.1 We obtained an understanding of the policies and procedures of Mhlathuze Water as well as the relevant legislation applicable to Mhlathuze Water.

8.2 We conducted interviews with the management of Stefanutti Stocks Civils KZN together with their attorneys.

8.3 We further conducted interviews with the management of Hatch Goba together with their attorneys.

8.4 We obtained responses, emails, invoices and version of events on how the Variation Orders arose.

8.5 We obtained and perused the following documents regarding this matter under investigation;-

(a) Letter of appointment for Hatch Goba;

(b) Letter of appointment for SSO Joint Venture;

(c) Various emails between Hatch Goba, Ms A. Ngwane, Mr M. Majola and others;

(d) Emails between Hatch Goba and Stefanutti Stocks;

(e) Invoices from Isibonelo Construction;

(f) Variation Orders;

(g) Payment Certificates number eight and twelve;

(h) Correspondences from attorneys acting on behalf of Hatch Goba;

(i) Correspondences from attorneys acting on behalf of Stefanutti Stocks;

(j) Forensic company and director search of Isibonelo Construction and its director;

(k) Delegation of Authority Policy of MW

9. RESTRICTIONS AND LIMITATION

9.1 We draw your attention to the following limitations inherent in this report.

9.1.1 Our report does not constitute a forensic investigation or an audit made in terms of relevant national standards or practices.

9.1.2 The scope of our work was limited to the instruction of establishing the source of Variation Orders, the analysis of invoices as well as all the documents we discovered during the course of the investigation.

9.1.3 Miss Ngwane and Mr. Majola are no longer employees of Mhlathuze Water therefore our investigation does not include their versions despite the fact that they approved the invoices of Isibonelo Construction and they signed the Variation Orders.

9.1.4 Our reports contain references to legal positions and legislation. We are assessing the evidence and assimilating the law into the facts as we find them and thus providing a legal opinion as part of our report and the findings thereto.

9.1.5 We were unable to subpoena bank records of Isibonelo Construction which might have shed light on the persons or entities that may have been direct or indirect involvement in this matter. The powers to subpoena the relevant information are held by the law enforcement agencies of the Republic.

COMMISSION OF INQUIRY INTO STATE CAPTURE

10. DETAILED FINDINGS

10.1 Hatch Goba was appointed on 23 December 2013 to render professional services as Consulting Engineers for the "Augmentation of Nsezi Water Treatment Works" (hereafter referred to as "The Project"). Annexure A

10.2 SSO JV were appointed on 11 March 2015 to construct the "Nsezi Water Treatment Works and Associated Bulk Infrastructure" (hereafter referred to as "The Contractor"). Annexure B

10.3 Mhlathuze Water was presented with an invoice from Isibonelo Construction for an amount of R2, 280, 000-00 dated 30 September 2015. The description of work done on the invoice was ***"Office Renovations and Surge Tower Refurbishment"***. This invoice was received and signed for on behalf of Mhlathuze Water by Ms. Andile Ngwane, the former Project Manager and Mr Mboniseni Majola, the former Programs Manager on 02 November 2015. Ms Ngwane signed recommending payment whereas Mr Majola signed to approve payment of the invoice. Annexure C

10.4 According to the email trail the invoice was attached to an email from Nishal Ramsaran of Hatch Goba dated 2 November 2015 specifically requesting that payment be made to Isibonelo Construction cc. The email was addressed to Muhammad Haffajee of Stefanutti. The following individuals from Stefanutti were copied in the email: Dave Stewart, Fungai Madziwa and John Woodburn. Slater Kendall of Hatch Goba as well as Andile Ngwane and Mboniseni Majola both of MW were also copied. Annexure D

10.5 On the 23rd of October 2015 at 01:26 PM Ramsaran sent an email reminding Andile Ngwane about the invoice she wanted to be paid and seeking advice. Nobody else was copied in this communication. Annexure E

10.6 Andile Ngwane replied to Ramsaran copying Mboniseni Majola on 23 October 2015 at 13:45 confirming the value as R2, 280, 000.00 and indicating that [*the signed invoice* (sic)] will be scanned and email or can be collected on Monday. Ramsaran emailed Andile Ngwane copying Mboniseni Majola on 28 October 2015 at 7:55 AM enquiring if the contractor can put his mark-up on this amount. Mr Majola replied on the same day at 10:09 AM confirming that they can put the mark-up but

it cannot exceed 10% and telling Ramsaran to negotiate with them. Annexure F

10.7 The conversation between Ramsaran and Majola ended with the former thanking the latter and indicating that he will try his best and the latter indicating that Ramsaran is welcomed. Annexure G

10.8 On 02 December 2015 SSO Joint Venture paid R2, 280, 000.00 to Isibonelo Construction CC. Annexure H

10.9 Variation Order Number three (3) for R2, 200, 000.00 dated 05 August 2016 and pp signed by S. Reddy for approval was presented to MW for payment. The invoice was made up of R2,000,000-00 plus R200,000-00 (10% mark-up). The narrative on the VO was ***"Employer Instruction: payment to Isibonelo Construction cc"***. The motivation on the VO was the following: ***"As per clients request, dated 23 October 2015, payment was to be made to Isibonelo Construction CC, as per the attached invoice. The communication received from the client attached for further reference"***. Annexure I

COMMISSION OF INQUIRY INTO STATE CAPTURE

10.10 MW paid SSO Joint Venture for this VO under payment certificate number eight (8). Payment Certificate eight (8) included other items but amongst them was the amount for this VO. Annexure J

10.11 Mhlathuze Water was presented with an invoice from Isibonelo Construction for an amount of R1, 993,435-01 dated 05 December 2015. The description of work done on the invoice was ***"Perimeter fencing and Pumpstation construction"***. This invoice was received and signed for on behalf of Mhlathuze Water by Ms. Andile Ngwane, the former Project Manager and Mr. Mboniseni Majola, the former Programs Manager on 26 January 2016. Ms. Ngwane signed recommending payment whereas Mr.Majola signed to approve payment of the invoice. Annexure K

10.12 This invoice is first seen attached to an email from Satha Reddy of Hatch Goba dated 02 February 2016 to Mr. Woodburn of Stefanutti. Slater, Kendall, Morgan, Garreth and Mohammad Haffajee were copied. Reddy indicates that he will need written confirmation from the client's instruction before actioning. Mr. Woodburn replied saying, *inter ali a*,that ***they are fine with this and that he understood that MW has a budget issue on another project and are using Nsezi 1 & 2 to fund their shortfall. He further states that he has been told that***

funds will be transferred back to ensure their project don't run short. Annexure L

10.13 Satha Reddy emailed Miss Andile Ngwane on 03 February 2016 at 09:51 AM requested further instructions in writing in respect of processing the invoice. Slater, Kandall, Morgan and Gareth were copied. Ms Ngwane replied to Reddy on the 04th of February 2016 copying Mboniseni Majola in addition to those that were copied in the previous email by Reddy saying Satha Reddy must proceed as discussed. Annexure M

10.14 On 23 February 2016 SSO Joint Venture paid R1, 993, 435-00 to Isibonelo Construction CC. Annexure N

10.15 Variation Order Number seven (7) for R1, 923, 489-92 excluding VAT was presented to MW for payment. The invoice was made up of R1, 748, 627.20 plus R174, 862.72 (10% mark-up). The VO is dated 05 August 2016 and pp signed by S. Reddy for approval. The narrative on the VO was *"Employer Instruction: payment to Isibonelo Construction cc"*. The motivation on the VO was the following: *"As per clients request, dated 04 February 2016, payment was to be made to Isibonelo Construction CC, as per the attached invoice.*

The communication received from the client attached for further reference". Annexure O

10.16 MW paid the amount of this VO to SSO JV on payment certificate number twelve (12). Payment Certificate twelve (12) included other items but amongst them was the amount for this VO. Annexure P

COMMISSION OF INQUIRY INTO STATE CAPTURE

11 THE ROLE OF HATCH GOBA

11.1.1 **HATCH GOBA** was aware of the reasons why the invoices were sent to **STEFANUTTI STOCKS** for payment.

11.1.2 It was **HATCH GOBA** that instructed **STEFANUTTI STOCKS** to pay the invoices as the Consulting Engineers in the project.

11.1.3 As part of **HATCH GOBA'S** obligations towards Mhlathuze Water they had to monitor the work done by **STEFANUTTI STOCKS**. They had to ensure that invoices made by **STEFANUTTI STOCKS**to Mhlathuze Water or any Variation Order are for the actual work done or carried out by **STEFANUTTI STOCKS**.

11.1.4 It is obvious that the invoices from Isibonelo were not for work done on the project. Isibonelo was not a subcontractor in the project to deserve any payment from Stefanutti.

11.1.5 Variation Orders are exclusively reserved for instances where a contractor has to do additional work which was not catered for in the original scope of work. These Variation Orders were not for

additional work done by Stefanutti therefore should not have been signed by **HATCH GOBA**.

11.1.6 We consulted with representatives of **HATCH GOBA**. We also engaged with their attorneys as well.

11.1.7 In a letter penned by their attorneys, **HATCH GOBA** says they were requested by client (Mhlathuze Water) to ask Stefanutti to process payment to Isibonelo who had performed work for MW on a different project and was owed monies by MW. The reason provided for the instructions was that MW's internal budgeting issues had resulted in a delay in payment to Isibonelo, and as a temporal workaround, MW wished to utilize funds allocated to this project to pay Isibonelo. Annexure Q

11.1.8 It is important to note that **HATCH GOBA'S** response was not reduced into a sworn statement despite an undertaking from their Counsel that they will provide a sworn statement during our interview with them on 19 April 2017.

11.1.9 Their defense seems to be that they were instructed by the authorized officials of Mhlathuze Water to facilitate the payment of

the invoices. Clearly on the face of it this defense is flawed. They ought to have known that payment of invoices in an unrelated contract was illegal and outside the scope of their appointment.

11.1.10 **HATCH GOBA** had a responsibility to effectively managing the project and signing off payment certificates. By signing a Payment Certificates **HATCH GOBA** certified to MW that work claimed by Stefanutti was done according to specification and is of acceptable standard thus MW can pay. This responsibility was well known to **HATCH GOBA** therefore they cannot deny their participation in this crime by alleging ignorance whereas no work certified by them in the VO's and the payment certificates was ever done.

11.1.11 **HATCH GOBA** would have known at the time **STEFANUTTI STOCKS** made Variation Orders three (3) and seven (7) in respect of contract number MW/15/2014 that the Variation Orders were a misrepresentation and a crime. The actual work claimed was outside the scope of the contract of work between Mhlathuze Water and **STEFANUTTI STOCKS**.

11.1.12 **HATCH GOBA** as Consulting Engineers were supposed to be eyes and ears of Mhlathuze Water. They failed in their responsibilities

and participated in the facilitation of a crime and incriminated themselves in the process.

MHLATHUZE WATER - AMANZI

11.2 CONCLUSIONS

11.2.1 A reasonable inference can be drawn from the proven facts that **HATCH GOBA** colluded with **STEFANUTTI STOCKS**, Andile Ngwane, Mbonisenl Majola as well as Isibonelo Construction to defraud Mhlathuze Water.

11.2.2 The actions of **HATCH GOBA** were unethical, dishonest and/or alternatively were negligent. As a result of their actions Mhlathuze Water was financially prejudiced.

11.2.3 The actions of **HATCH GOBA** aided and abated a criminal offence within the ambit of POCA.

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER

11.3 RECOMMENDATIONS

11.3.1 **HATCH GOBA** should be reported to the National Society of Professional Engineers for violation of the NSPE Code of Ethics for Engineers: Rule of Practice II (1)(e) and (f).

11.3.2 **HATCH GOBA** should be reported to the CIDB for an investigation under section 28 of the CIDB Act to be instituted and for a formal enquiry contemplated under 29 of the CIDB Act to be launched.

11.3.3 Civil recovery court processes should be instituted against **HATCH GOBA** for the loss suffered by Mhlathuze Water as a result of **HATCH GOBA** in respect of the payment of the Variation Orders approved by **HATCH GOBA**.

11.3.4 Criminal charges be laid against **HATCH GOBA** for fraud and money laundering. The scope of the criminal investigation will be wider in terms of the Criminal Procedure Act compared to the current investigation and therefore other crimes can emerge from this transaction.

11.3.5 **HATCH GOBA** must be reported to National Treasury to be blacklisted and debarred from doing business with MW in future.

COMMISSION OF INQUIRY INTO STATE CAPTURE

12. THE ROLE OF STEFANUTTI STOCKS

12.1.1 **STEFANUTTI STOCKS** was appointed by Mhlathuze Water as a contractor under contract number MW/15/2014. They were responsible for the payment of R2, 280, 000.00 (including Vat) and R1, 993, 435.01 (including Vat).

12.1.2 They allege that they got an instruction from **HATCH GOBA** to make payment on behalf of Mhlathuze Water.

12.1.3 From the exchange of the emails between **HATCH GOBA** and Miss Ngwane it is glaringly clear that **STEFANUTTI STOCKS** was equally aware of what was discussed. Stefanutti Stocks communicated with **HATCH GOBA.**

12.1.4 John Woodburn a director of **STEFANUTTI STOCKS** acknowledged by email that they have been requested to make payment and were fine with it. They were allegedly told that Mhlathuze Water is experiencing a shortfall in one of their projects and Mhlathuze Water requires funding from the project they were appointed on to fund another project. No evidence could be found of this reasoning from any of MW's officials.

12.1.5 They requested the invoices from Isibonelo Construction in order to effect payment. They then negotiated a mark-up in respect of the payments.

12.1.6 Effectively payment was then made on account of the invoices that were submitted to them. They aver that the invoices were approved for payment by Mboniseni Majola and Andile Ngwane and that makes them good for payment.

12.1.7 The nature of the transaction on closer examination of **STEFANUTTI STOCKS's** version amounted to a loan. This conclusion is reached because **STEFANUTTI STOCKS** was appointed for the Nsezi Water Treatment Works, MW ran out of funds in another project and loaned from Stefanutti to fund the other project. Stefanutti is surely not in the business of giving loans to their clients as they allege they did herein. This version leaves a lot to be desired.

12.1.8 They subsequently claimed repayment of this loan amount by way of a Variation Order. Stefanutti was well aware of what a Variation Order is and that it is used only if there is an alteration to the scope of works in a construction contract in the form of an addition, substitution or omission from the original scope of works.

12.1.9 Clearly their payment of the two invoices presented by **HATCH GOBA** could not have been within the ambit of a Variation Order. The actions of Stefanutti in this regard are questionable and they exhibit an element of knowledge that their actions were *mala fide*.

12.1.10 In a letter written by their attorneys Stefanutti's defense is that they were instructed by **HATCH GOBA** to make the payments to Isibonelo. They also ensured that the invoices were approved by MW before payment could be made. Annexure R

12.1.11 The emails clearly demonstrate that there was collusion between **STEFANUTTI STOCKS** and **HATCH GOBA** therefore **STEFANUTTI STOCKS** cannot at this stage distance itself as an innocent party in this unlawful transaction. They were quick to proclaimed that they are aware of this request for payment and were fine with it in the face of some concerns raised by **HATCH GOBA**.

12.1.12 **STEFANUTTI STOCKS** failed to make due diligence and find out if the transaction or request made by Mhlathuze Water through **HATCH GOBA** was allowed in any way by law.

12.1.13 **STEFANUTTI STOCKS** abandoned all checks and balances because they were aware of the profit they stood to make on this transaction.

12.1.14 There is a clear inference that is inescapable regarding **STEFANUTTI STOCKS** in that they ought to have known that the transaction was illegal and unlawful, either they chose to play ignorant or they were simply negligent. Either way their actions are criminally and ethically reprehensible.

12.1.15 It is highly improbable that a reputable company like **STEFANUTTI STOCKS** would pay millions of rand to an account of an unknown entity and merely rely on the fact that they were instructed by an employee of a client.

12.1.16 **STEFANUTTI STOCKS** had a responsibility and a duty of good faith towards Mhlathuze Water. **STEFANUTTI STOCKS** made no attempt to verify the representations made by **HATCH GOBA** and its representatives on the reason it ought to pay the invoices.

MHLATHUZE WATER

12.2 CONTINUED

12.2.1 At all material times **STEFANUTTI STOCKS** ought to have known that it was not responsible for making payments to Mhlathuze Water's suppliers irrespective of the circumstances.

12.2.2 They were aware that the request for payment of the invoices could not be reduced to a Variation Order as it was outside the scope of work they were appointed for in the first place.

12.2.3 **STEFANUTTI STOCKS** knew that it had a right to refuse to make payments of the invoices but chose not to do so. In fact, they justified the payment to **HATCH GOBA.**

12.2.4 The payment of the fraudulent invoices was in furtherance of a crime.

12.2.5 **STEFANUTTI STOCKS** further committed fraud when it claimed work done by way of a Variation Order whereas the payment was to recover a loan they had unlawfully advanced.

12.2.6 The letter of appointment that **STEFANUTTI STOCKS** signed as an indication of acceptance of such an appointment emerged from the office of the CEO. It is peculiar that no verification is made to the CEO when the request for payment of the fraudulent invoices is made.

12.2.7 It is an inescapable conclusion that all the signs were there that what was asked of **STEFANUTTI STOCKS** was improper and unlawful but Stefanutti decided to ignore the signs. They in fact decided to actively participate in this crime with full knowledge that they were committing a crime.

12.2.8 The reason that **STEFANUTTI STOCKS** ignored all possible signs in the fraudulent payment it effected on Isibonelo Construction is because they stood to profit to the prejudice of Mhlathuze Water.

MHLATHUZE WATER

12.3 RECOMMENDATIONS

12.3.1 **STEFANUTTI STOCKS** should be reported to the CIDB for an investigation under section 28 of the CIDB Act to be instituted and for a formal enquiry contemplated under 29 of the CIDB Act to be launched.

12.3.2 Subject to the Prescription Act, civil recovery court processes should be instituted against **STEFANUTTI STOCKS** for the loss suffered by Mhlathuze Water as a result the payment of the Variation Orders which were claimed by **STEFANUTTI STOCKS**.

12.3.3 Criminal charges be laid against **STEFANUTTI STOCKS** for fraud and money laundering. The scope of the criminal investigation will be wider in terms of the Criminal Procedure Act compared to the current investigation and therefore other crimes can emerge from this transaction.

12.3.4 **STEFANUTTI STOCKS** must be reported to National Treasury to be blacklisted and debarred from doing business with MW in future.

COMMISSION OF INQUIRY INTO STATE CAPTURE

12.4 THE ROLE OF ANDILE NGWANE AND MBONISENI MAJOLA

12.4.1 Andile Ngwane recommended payment of the two fraudulent invoices and Mboniseni Majola approved the invoices to the prejudice of Mhlathuze Water in the amount of R4, 123,489.92.

12.4.2 The invoices by Isibonelo Construction were in respect of contract reference numbers MW12/2015 and MW13/2015. We have established through our investigation that there were no bids or contract with these reference numbers as appearing on the invoices. These invoices were therefore issued from no existing contract or project.

12.4.3 According to our investigation there was no work done by Isibonelo Construction cc for MW either at the Nsezi Project or anywhere else.

12.4.4 Miss Ngwane was the person who interacted with **HATCH GOBA** regarding the extraordinary payment of the invoices.

12.4.5 In most communications Miss Ngwane had with **HATCH GOBA** via emails Mr Majola was kept abreast of what was happening.

12.4.6 In one email Mr Majola directly requests that Stefanutti should not charge a mark-up exceeding 10% of the amount on the invoices.

12.4.7 Mr Majola as a Programs Manager and Miss Ngwane as a Project Manager at the time would have known that Isibonelo Construction had not rendered any work for Mhlathuze Water and would have been aware of the fraudulent nature of these invoices.

12.4.8 At the commencement of this investigation, Miss Ngwane had been dismissed by Mhlathuze Water for related acts of misconducts which pointed to her propensity to commit misconduct relating to dishonesty and tender fraud.

12.4.9 While similar fact evidence may not be admitted in Court however for the purpose of our investigations and other proven facts, an inescapable inference is drawn that Miss Andile Ngwane knew from the onset that the invoices she recommended were fraudulent. The same inference can be drawn in respect of Mr Majola.

12.4.10 We were unable to interview both Mr Majola and Miss A Ngwane owing to the fact that they are both dismissed and out of employment at Mhlathuze Water.

MHLATHUZE WATER

12.5 CONCLUSIONS

12.5.1 Given that it is evident that the invoices were fraudulent Miss Ngwane and Mr Majola have a criminal case to answer on what basis did they recommend and approve payment of the fraudulent invoices when they were aware at the time that the invoices were fraudulent and that no actual work had been done by Isibonelo Construction on behalf of Mhlathuze Water.

12.5.2 Both Miss Ngwane and Mr Majola had no legal basis and/or authority to solicit payment of the invoices from third parties on behalf of Mhlathuze Water.

12.5.3 The Delegations Policy provides that a Variation Order exceeding an amount of R1m should be dealt with by the CEO and if it less than R1m it must be delegated to the respective Head of Department.

12.5.4 Miss Ngwane and Mr Majola were neither CEOs nor Heads of Departments at the relevant times and therefore had no authority to sign the invoice. Their unlawful conduct is exacerbated by the fact that the VOs were only pp signed by S. Reddy of HATCH GOBA

with nobody from MW signing them. In actual fact these VOs were simply not signed because the identity of the person who pp signed them for S Reddy is unknown.

12.5.5 An inference can be drawn from the proven facts that both Ngwane and Majola ought to have been aware that the delegation to sign and approve the invoice in terms of the DOA policy rested with the CEO. Annexure U

12.5.6 Mr Majola and Miss Ngwane's conduct is criminal in nature as evidence suggests that at all material times they knew that the invoices were not for work done for Mhlathuze Water and were thus fraudulent.

MHLATHUZE WATER

12.6 RECOMMENDATIONS

12.6.1 Miss Ngwane and Mr Majola are no longer employed by Mhlathuze Water therefore it would be impossible to subject them to an internal disciplinary hearing.

12.6.2 We established that both Ngwane and Majola are qualified engineers and may be members of the Engineers profession. Their conduct can be reported to their professional body to an extent that they are members of such bodies.

12.6.3 Criminal charges of fraud and money laundering should be laid against Miss Ngwane and Mr Majola with the SAPS.

12.6.4 Subject to the Prescription Act, civil recovery Court processes for the loss suffered by Mhlathuze Water as a result of the fraudulent actions committed by A Ngwane and Mr Majola must be instituted.

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE

12.7. THE UNDUE INFLUENCE

12.7.1 We have established that the said company exist with the following registration number 1997/051620/23. Annexure S

12.7.2 We have established that the active director of the company is one Alison Mbukeni Zakwe with identity number 620320 5948 080. Annexure T

12.7.3 The company's principal address is 14 Drongo Domain, Birdswood, Richard's Bay.

12.7.4 Isibonelo issued the two (2) invoices and received payment of the two (2) amounts into their bank account.

12.7.5 The descriptions on the invoices issued by them were false as they had not done any of the work allegedly done in the invoice. The fraud started when these invoices were issued by Isibonelo when they knew that no work was done by them on behalf of MW. Their conduct is outright criminal.

12.7.6 Since this is not a criminal investigation our findings in respect of Isibonelo Construction are very limited. However, the law enforcement agencies have powers to issue subpoenas in terms of section 205 of the Criminal Procedure Act 77 of 1977 which would assist in obtaining records and locating the directors of the said company.

MHLATHUZE WATER

12.8 RECOMMENDATIONS

12.8.1 A criminal investigation must be instituted as it may assist in terms of a section 205 of the Criminal Procedure Act in the subpoena of the bank records of Isibonelo Construction.

12.8.2 Bank records will provide information not just about the person whose records have been received but also about their sources of funds (Isibonelo Construction), the people and places to which they forward funds and the identity of their directors.

12.8.3 A forensic criminal investigation is recommended in respect of Isibonelo Construction.

COMMISSION OF INQUIRY INTO STATE CAPTURE

13. THE ROLE OF SIBUSISO MAKHANYA

13.1 Mr Mkhanya was the Chief Executive Officer of Mhlathuze Water at the time the invoices were recommended and approved for payment by Miss A. Ngwane and Mr Majola respectively.

13.2 Mr Makhanya as CEO was the Accounting Officer and accordingly he had to ensure that there were effective, efficient and transparent financial systems and controls.

13.3 Mr Makhanya ought to have taken effective and appropriate steps to prevent unauthorized, irregular and fruitless and wasteful expenditure. These steps start from preventing the unlawful recommendation and approval for payment of the actual invoice and extends to the actual payment of the VO which was only pp singed by the Engineers without the CEO's signature yet it was paid.

13.4 The mere fact that employees of MW were able to present fraudulent invoices and solicit unlawful payments clearly demonstrates that there were no effective and efficient systems and controls in place in MW.

13.5 The consequences of Mr Makhanya's failure to put systems in place resulted to Mhlathuze Water being open to financial risk and loss.

13.6 The issue is further exacerbated by the fact that the Delegations Authority of Mhlathuze Water directed unequivocally that any VO involving an amount exceeding One Million Rand was to be approved ONLY by the CEO.

13.7 Both VOs from Stefanutti exceeded the One Million Rand threshold, were not signed by the CEO but were successfully paid.

13.8 Mr Makhanya is currently suspended and is facing various allegations of misconduct and hence we were unable to interview him and get his version as to whether he knows anything regarding the transaction under investigation.

13.9 The CEO operates strategically and as such there are expectations of his leadership and knowledge which places a high premium on his skill and care. It is on that basis that the PFMA operates on a strict liability when a CEO has abdicated his responsibilities in a manner similar to what Mr Makhanya has done.

13.10 A response to the effect that Mr Makhanya was not aware of the transaction will still fall foul of section 38 of the PFMA and its Regulations.

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER

13.11 RECOMMENDATIONS

13.11.1 A criminal investigation must be initiated against Mr Makhanya to establish the extent of his involvement in the transaction under investigation. The scope of the criminal investigation will be wider in that it will be able to establish if corruption, racketeering and money laundering elements were present as contemplated in POCA.

13.11.2 He should be charged for acts of financial misconduct, and/or gross negligence and/or gross dereliction of duty.

13.11.3 Mr Makhanya should also be subjected to a civil recovery of the loss suffered by Mhlathuze Water jointly and severally with all the other active participants in these fraudulent transactions, with one paying the others being absolved.

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE

14. CONCLUSION

14.1 We conclude that the payments totaling to **R4 123 348.92** to Isibonelo Construction herein were unauthorized, irregular, fruitless and wasteful expenditure.

COMMISSION OF INQUIRY INTO STATE CAPTURE

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
	4.9	Post tensioning							
		By special PT sub-contractor							
	4.9.1	PT design and supply, in accordance with drawing number H346307-0000-30-035-0004-001 including working drawings for Engineer approval, sheathing, stools, anchorages, supply threading and stressing of low relaxation multi-strand, supply of non-shrink grout additive, corrosion inhibitor, grouting pipes and placement of grout (Sika Intraplas-Z and Sikagard 901 admixture or similar approved)	sum	1	0	0.25	0.25	1,362,994.61	340,523.65
		By main contractor							
	4.9.2	Placement only by main contractor, including sheathing and anchorages	sum	1	0	0.7	0.7	16,198.00	11,338.60
		Total Page 163 2,884,959.47							
	4.1	Concrete							
164	4.10.1	No-fines concrete, 100mm thick including skimmed blinded surface	m3	200	191.42	0.00	191.42	1,981.72	379,340.84
	4.10.2	i) 15Mpa/19mm mass concrete where ordered by the Engineer (provisional)	m3	20	3.44	0.00	3.44	1,541.28	5,302.00
		Prescribed mix concrete 35mpa/19mm (see PSG) to:							
	4.10.5	i) Floor slab	m3	320	280.89	31.21	312.1	1,789.82	558,602.82
	4.10.6	ii) Wall footing	m3	245	241.61	0.00	241.61	1,789.82	432,436.41
	4.10.7	iii) Wall	m3	784	0	219.8	219.8	1,789.82	393,044.47
	4.11	Unformed surface finishes							
	4.11.1	Power float finish to floor and wall footing	m2	1,910	1,740.00	168.9	1,908.9	37.70	71,965.53
	4.12	Joints							
		Casting joints complete, including all preparation, material and labour:							
	4.12.1	Floor joint type FJ1	m	300	330.05	82.51	412.56	644.98	266,092.85
		Movement joints complete, including all preparation, material and labour:							
		RUNNING TOTAL							22,756,691.65

DD34-DCM-362

INTERIM VALUATION OCTOBER 2015

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
	4.12.5	Wall sliding joint type WJ9, complete with bearings (double row required at buttress), filler, Sondor fillet, Sika Combiflex, including required preparation	m	149	0	163.34	163.34	1,186.09	193,735.94
		Miscellaneous							
	4.12.7	Water barrier, 250 micron DPC below no-fines layer	m3	1,910	1,908.9	0.0	1,908.9	11.65	22,236.89
	4.12.8	Sikaswell "P-2010" swellable joint sealant or similar approved around pipework cast in concrete	m	20	11.50	0.00	11.50	254.98	2,932.04
		Total Page 164 2,323,893.69							
	4.14	Under floor drainage							
		Supply, lay, joint HDPE "Drainex" non-slotted pipes or similar approved							
165	4.14.1	75mm Dia	m	110	101.69	0.00	101.69	69.80	7,097.12
		Supply, lay, joint in no fines concrete layer HDPE "Drainex" slotted pipes or similar approved							
	4.14.2	75mm dia under drain	m	211	344.93	0.00	344.93	72.49	24,935.73
		Extra over 8.2.1 above for the supply, lay and bedding of HDPE "Drainex" type fittings or similar approved							
	4.14.3	75mm dia 90 degree bend	no	2	12.00	0.00	12.00	72.95	875.40
	4.14.6	75mm dia 45degree band	no	2	8.00	0.00	8.00	72.95	583.60
	4.15	Miscellaneous							
	4.15.4	Drill and grout in Y20 dowels	no	312	58.00	0.00	58.00	39.26	2,277.08
		Total Page 165 36,721.93							
		SECTION E: DAYWORKS							
	5.2	Labour							
166	5.2.3	Unskilled labourers	Hr	600	0	200.66	200.66	40.39	8,086.60
		Total Page 166 8,086.60							
	A	MATERIALS ON SITE							
167	D	Fleximesh	m2	0	98.22	0.00	98.22	62.51	6,139.73
		RUNNING TOTAL							23,025,546.58

New Company 28/04/15 15:44:53 MH — MW/15/2014 - Nsezi WTW- February 2016 MH

HEADING SUMMARY OF INTERIM VALUATION FEBRUARY 2016

PAGE	SECTION	LEVEL	PREVIOUS	PRESENT	AMOUNT
154	NSEZI WTW AND BULK INFRASTRUCTURE - CONSTRUCTION OF A 20ML RESERVOIR	1	25,475,983.55	1,881,246.41	27,357,229.96
154	SECTION A: PRELIMINARY AND GENERAL	2	9,062,209.71	504,382.62	9,566,592.33
156	SECTION B: EARTHWORKS	2	5,825,963.61		5,825,963.61
159	SECTION C: PIPELINE	2	3,887,879.30		3,887,879.30
162	SECTION D: STRUCTURES	2	8,692,744.33	1,376,863.79	8,069,606.12
166	SECTION E: DAYWORKS	2	8,086.60		8,086.60
167	MATERIALS ON SITE	1	2,292,707.79	571,006.38	2,773,714.17
167	VARIATION ITEMS	1	2,251,834.79	1,923,489.92	4,175,324.71
	VALUATION TOTAL		29,930,526.13	4,375,742.71	34,306,268.84

Enquiries/Navrae: Z Magubane–Tel (035) 902 1037
e-mail address/e-pos adres: zmagubane@mhlathuze.co.za
Our reference/Ons verwysing: Letter of Appointment: MW/15/2014
Your reference/U verwysing: MW/15/2014

MHLATHUZE WATER

11 March 2015

SSO JV
P.O Box 1567
PINETOWN
3600

Dear Sir

Fax/e-mail: Mathew.horwill@stefstocks.co.za

LETTER OF APPOINTMENT – NSEZI WATER TREATMENT WORKS AND ASSOCIATED INFRASTRUCTURE –CONSTRUCTION OF A 20ML RESEVOIR-MW/15/2014

Mhlathuze Water hereby appoints you for the Nsezi Water Treatment Works and Associated Infrastructures , the construction of a 20ML Reservoir for the amount of **R59 934 795.80** including **VAT** and **Contingencies;**

For the commencement dates of this appointment kindly liaise with Mr Mboniseni Majola on contact number 035-902 1044 or email: mmajola@mhlathuze.co.za

On acceptance of appointment you will be requested to sign the tender document as the condition of contract. This letter forms part of the conditions of the agreement.

Please note that this appointment does not bind Mhlathuze Water in any way to appointing you or your firm for any further phases or stages that may be identified as a result of this appointment.

Your appointment is subject to five (5) working days objection period which expires on the 18th of March 2015.

Yours faithfully,

Mr A.S. Makhanya
Chief Executive Officer

11/03/15
Date

Acceptance of appointment for contract MW/15/2014 by:

Matthews Horwill.
Name and surname: On behalf of SSO JV

Signature

11/03/2015
Date

Rejection of appointment for contract MW/15/2014 by:

Name and surname: On behalf of SSO JV

Signature

Date

Company Stamp:

Cc: Ms Zakithi Magubane
SCM Manager

Cc: Mr Mbonisseni Majola
Programme Manager

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO NSEZI BALANCING RESERVOIR PROJECT CONTRACTOR: SSO JOINT VENTURE RE: R2 200 000.00 AND R1 923 489.92 IRREGULAR EXPENDITURE

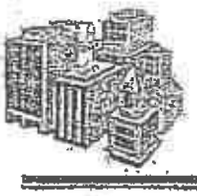
ANNEXURE K

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

1003B Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
T (031) 305 7537 F (031) 305 7538
admin@mhlangainc.co.za

COMMISSION OF INQUIRY INTO STATE CAPTURE



ISIBONELO CONSTRUCTION CC

CK/1997/051620/23
P O BOX 9553
RICHARDS BAY, 3900 SOUTH AFRICA
Phone: 035 797 5240 Fax : 035 797 5039
email:isibonelo@telkomsa.net

TAX INVOICE
ISB 0133

TAX INVOICE

VAT No. 4030175733

Customer

Name SSO JV
Address 14 Circuit Road, P.O.Box 1567 Pinetown
City Westmed Code 3600 ZIP
Vat No.

Date 05/12/2015
Order No. MW 12/2015
Rep
FOB

Qty	Description	Unit Price	TOTAL
	1 Perimeter fencing		R 895 400.00
	2 Pumpstation construction		R 853 107.20

MHLATHUZE WATER
AANBEVEEL RECOMMENDED — DATUMS 2016/01/26
GOEDGEKEUR APPROVED — DATES 2016/1/26

Our banking details are as follows:
Acc Name: Isibonelo Construction cc
Bank name: Standard bank
Acc No:: 052014803
Branch Code: 057530
Branch name:Empangeni

	SubTotal	R 1 748 627.20
	Shipping & Handling	
Taxes	SA	R 244 807.81
	TOTAL	R 1 993 435.01

Payment Details

- (●) Cash
- ( ) Cheque
- ( ) Credit Card

Name
CC #
Expires

PAYMENT TERMS: 30 DAYS FROM DATE OF INVOICE

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE

WATER • AMANZI

REPORT ON THE INVESTIGATION INTO NSEZI BALANCING RESERVOIR PROJECT CONTRACTOR: SSO JOINT VENTURE RE: R2 200 000.00 AND R1 923 489.92 IRREGULAR EXPENDITURE

ANNEXURE L

Prepared by

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Attorneys & Conveyancers

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T (031) 305 7537 F (031) 305 7538
admin@mhlangainc.co.za

COMMISSION OF INQUIRY INTO STATE CAPTURE

Reddy, Satha

From: Reddy, Satha
Sent: Tuesday, February 02, 2016 9:05 PM
To: John Woodburn
Cc: Slater, Kendall; Morgan, Gareth; Muhammad.Haffajee
Subject: Re: Umhlathuze Subcontractor
Attachments: image001.jpg

Hi John

Thanks for your feedback. As I have been told there was a similar request from the Client before my time which was processed by Hatch Goba via a VO.

I would prefer discussing this one internally first and requesting written confirmation from the Client iro their instructions prior to actioning as applicable.

Appreciated

From Satha Reddy Mobile

-------- Original Message --------
Subject: Umhlathuze Subcontractor
From: John Woodburn
To: "Reddy, Satha"
CC: "Slater, Kendall"

Satha,
I am aware of this Umhlathuze Contractor payment that we have been requested to make. We are fine with this. From what I understand, Umhlathuze Water have a budget issue on another project and are using Nsezi 1 & 2 to fund their shortfall. We are told that funds will be transferred back to ensure our projects don't run short.

Regards

John Woodburn
Director

+27 31 700 1416 (Office)
+27 31 700 1188 (Fax)
+27 83 447 1876 (Mobile)

Stefanutti Stocks Civils KZN
a division of Stefanutti Stocks (Pty) Ltd
Reg No. 2003/022221/07

See link to Disclaimer below:
http://www.stefanuttistocks.com/Email-Disclaimer.aspx

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO NSEZI BALANCING RESERVOIR PROJECT CONTRACTOR: SSO JOINT VENTURE RE: R2 200 000.00 AND R1 923 489.92 IRREGULAR EXPENDITURE

ANNEXURE M

Prepared by

MHLANGA INC
Attorneys & Conveyancers

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T (031) 305 7537 F (031) 305 7539
admin@mhlangainc.co.za

COMMISSION OF INQUIRY INTO STATE CAPTURE

Reddy, Satha

From: Andile Ngwane <angwane@mhlathuze.co.za>
Sent: Thursday, February 04, 2016 8:11 AM
To: Reddy, Satha
Cc: Slater, Kendall; Morgan, Gareth; Mboniseni Majola
Subject: RE: Mhlatuze Water: Invoice for processing

Morning Satha

Please proceed as discussed.

Regards

Ms ANDILE NGWANE | PROJECT MANAGER | MHLATHUZE WATER
Cnr of South Central Arterial and Battery Bank, Alton, Richards Bay, 3900
P/Bag X1047, Richards Bay, 3900
Office: +27 35 902 1078| Fax: +27 35 902 1109|
e-mail: angwane@mhlathuze.co.za
www.mhlathuze.co.za
Please consider the environment before printing this email!

From: Reddy, Satha [mailto:SReddy@hatch.co.za]
Sent: 03 February 2016 09:51 AM
To: Andile Ngwane
Cc: Slater, Kendall; Morgan, Gareth
Subject: Mhlatuze Water: Invoice for processing

Hi Andile

Trust you are well.

Attached is the invoice that was handed over to ourselves on 28/02/2015. We kindly request your further instr
in writing, in respect of processing of the attached invoice so that we can action as applicable.

Much appreciated

Best Regards

Satha Reddy
Principal Technologist / PDG

HATCH GOBA
Member of the Hatch Group

Tel: +27 (0) 31 536 9400
Fax: +27 (0) 31 536 9500
Cell: +27 (0) 60 526 7341
25 Richefond Circle, Ridgeside Office Park, Umhlanga, South Africa

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO NSEZI BALANCING RESERVOIR PROJECT CONTRACTOR: SSO JOINT VENTURE RE: R2 200 000.00 AND R1 923 489.92 IRREGULAR EXPENDITURE

ANNEXURE N

Prepared by

MHLANGA INC
Attorneys & Conveyancers
10038 Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
T (031) 305 7537 F (031) 305 7538
admin@mhlangainc.co.za

COMMISSION OF INQUIRY INTO STATE CAPTURE

MAKE THINGS HAPPEN NEDBANK

Transaction Record

Date: 21/02/2017 Time: 10:57:03 AM

Payment date:	23/02/2016
From account name:	SSO JOINT VENTURE
From account description:	SSO JOINT VENTURE
From aocount statement description:	Isibonelo Construction cc
Amount:	-1,993,435.00

COMMISSION OF INQUIRY INTO STATE CAPTURE

Profile name:STEFANUTTI STOCKS CIVIL KZN
Profile number:4000093017

User name:TAREN GAIA
User ID:25

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO NSEZI BALANCING RESERVOIR PROJECT CONTRACTOR: SSO JOINT VENTURE RE: R2 200 000.00 AND R1 923 489.92 IRREGULAR EXPENDITURE

ANNEXURE O

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

1003B Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
T (031) 305 7537 F (031) 305 7538
admin@mhlanga.co.za

VARIATION ORDER

DATE: 5/8/2016

VARIATION ORDER NO. : Seven (7)

CONTRACT NUMBER : MW/15/2014

PROJECT TITLE : NSEZI WTW AND ASSOCIATED BULK INFRASTRUCTURE- CONSTRUCTION OF A 20ML RESERVOIR

CONTRACTOR : SSO JV

BRIEF DESCRIPTION : Employer Instruction: Payment to Isibonelo Construction CC

ITEM	DESCRIPTION	QTY	RATE	ADD	OMIT
	Add				
1	Employer Instruction: Payment to Isibonelo Construction CC	1	R 1,748,627.20	R 1,748,627.20	
2	Contractors mark up on above item		10%	R 174,862.72	
TOTAL				R 1,923,489.92	R 0.00
NETT AMOUNT OF THIS VARIATION (EXCLUDING VAT)				R 1,923,489.92	

MOTIVATION FOR VARIATION:
As per clients request, dated 4 February 2016, payment was to be made to Isibonelo Construction CC, as per the attached invoice. The communications received from the Client are attached for further reference.

APPROVAL BY ENGINEER: _____ DATE: 5/8/2016

APPROVAL BY CLIENT: _____ DATE: _____

DISTRIBUTION

1. Client
2. Contractor
3. Engineer

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE

WATER • AMANZI

REPORT ON THE INVESTIGATION INTO NSEZI BALANCING RESERVOIR PROJECT CONTRACTOR: SSO JOINT VENTURE RE: R2 200 000.00 AND R1 923 489.92 IRREGULAR EXPENDITURE

ANNEXURE P

Prepared by

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Attorneys & Conveyancers

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COMMISSION OF INQUIRY INTO STATE CAPTURE

Stefanutti Stocks Oro Joint Venture

14 Circuit Road, Westmead
PO Box 1567, Pinetown, 3600
TEL: +27 31 700 1416
FAX +27 31 700 1188

Oro Projects

TAX INVOICE
VAT REGISTRATION NO. 4930259081

CLIENT: MHLATHUZE WATER
CORNER OF SOUTH CENTRAL ARTERIAL AND BATTERY BANK
ALTON
RICHARDS BAY
3900
SOUTH AFRICA

DATE: 23 October 2015

CERTIFICATE NO: Eight

CONTRACT/PO NO: MW/15/2014
CLIENT VAT NO: 4230103362

CONTRACT: NSEZI WASTE WATER TREATMENT WORKS AND ASSOCIATED BULK INFRASTRUCTURE OF A 20ML RESERVOIR

MEASURED : 23 October 2015

INVOICE NO. 5409/9

ORIGINAL CONTRACT VALUE (excl.)	R	43 419 902.71
PLUS (MINUS) NETT VARIATIONS	R	
AMENDED CONTRACT VALUE	R	43 419 902.71

PROCESSED 30-10-2015

MHLATHUZE WATER
AANBEVEEL — DATUMS 2015/10/27
RECOMMENDED
GOEDGEKEUR — 2015/11/2
APPROVED — DATES

MEASURED WORKS		23 018 406.85
VARIATIONS		1 386 576.04
ADVANCE PAYMENT		3 517 543.66
MATERIALS ON SITE @80% OF		2 028 129.41
		29 951 656.16
CONTRACT PRICE ADJUSTMENT (SEE ATTACHED ESCALATION SHEET)		29 951 656.16
		29 951 656.16
LESS: RETENTION at 5%		24 773 505.50
LESS: PREVIOUSLY CERTIFIED		5 178 150.66
ADD: 14% VAT.		724 941.09
TOTAL PAYMENT DUE		5 903 091.75

POSTED 30-10-2015

DATE: 23 October 2015

FOR: STEFANUTTI STOCKS ORO JOINT VENTURE
BANKING DETAILS : NEDBANK
BRANCH : CORPORATE CLIENT SERVICES JHB
ACCOUNT NO. : 1103263609
BRANCH CODE : 145405

PAID

(4)

PR 29755

VARIATION ORDER

VARIATION ORDER NO. : Seven (7)

CONTRACT NUMBER : MW/15/2014

DATE: 5/8/2016

PROJECT TITLE : NSEZI WTW AND ASSOCIATED BULK INFRASTRUCTURE- CONSTRUCTION OF A 20ML RESERVOIR

CONTRACTOR : SSO JV

BRIEF DESCRIPTION : Employer Instruction: Payment to Isibonelo Construction CC

ITEM	DESCRIPTION	QTY	RATE	ADD	OMIT
	Add				
1	Employer Instruction: Payment to Isibonelo Construction CC	1	R 1,748,627.20	R 1,748,627.20	
2	Contractors mark up on above item		10%	R 174,862.72	
TOTAL			&		
NETT AMOUNT OF THIS VARIATION (EXCLUDING VAT)				R 1,923,489.92	R 0.00
				R 1,923,489.92	

MOTIVATION FOR VARIATION:

As per clients request, dated 4 February 2016, payment was to be made to Isibonelo Construction CC, as per the attached invoice. The communications received from the Client are attached for further reference.

APPROVAL BY ENGINEER: _____ DATE: 5/8/2016

APPROVAL BY CLIENT: _____ DATE: _____

DISTRIBUTION

1. Client
2. Contractor
3. Engineer

COMMISSION OF INQUIRY INTO STATE CAPTURE

Fruitless & Wasteful.

(3)

PR 29752

VARIATION ORDER

DATE: 5/8/2016

VARIATION ORDER NO. : Three (3)

CONTRACT NUMBER : MW/15/2014

PROJECT TITLE : NSEZI WTW AND ASSOCIATED BULK INFRASTRUCTURE- CONSTRUCTION OF A 20ML RESERVOIR

CONTRACTOR : SSO JV

BRIEF DESCRIPTION : Employer Instruction: Payment to Isibonelo Construction CC

ITEM	DESCRIPTION	QTY	RATE	ADD	OMIT
	Add				
1	Employer Instruction: Payment to Isibonelo Construction CC	1	R 2,000,000.00	R 2,000,000.00	
2	Contractors mark up on above item		10%	R 200,000.00	
				R 2,200,000.00	R 0.00
TOTAL				R 2,200,000.00	
NETT AMOUNT OF THIS VARIATION (EXCLUDING VAT)					

MOTIVATION FOR VARIATION:
As per clients request, dated 23 October 2015, payment was to be made to Isibonelo Construction CC, as per the attached invoice. The communications received from the Client are attached for further reference.

APPROVAL BY ENGINEER: _____ DATE: 5/8/2016

APPROVAL BY CLIENT: _____ DATE: _____

DISTRIBUTION

1. Client
2. Contractor
3. Engineer

COMMISSION OF INQUIRY INTO STATE CAPTURE

REMITTANCE ADVICE

MHLATHUZE WATER

SO JOINT VENTURE

4 CIRCUIT ROAD, WESTMEAD, PINETOWN,
610
.O. BOX 1567, PINETOWN 3600
001

X: 0865050456

Private Bag X1047
Richards Bay
KWAZULU NATAL
3900
Telephone +27 35 902 1000
Fax:

VAT registration number 4230103352

ACCOUNT No.	DATE
MW1824	30/11/2015

	TYPE	ITEM	REFERENCE	SETTLEMENT DISCOUNT	AMOUNT	
/2015	Payment	B409/9		0.00	5 903 091.75	ZAR
/2015	Payment	B409/10		0.00	3 097 772.09	ZAR
			Total		9 000 863.84	ZAR

at No 4230103352 must appear on all invoices for Mhlathuze
/ater. If it does not appear on the invoice, it is classified as a
it invoice according to legislation and therefore Mhlathuze
/ater will be unable to pay the invoice

COMMISSION OF INQUIRY INTO STATE CAPTURE

Stefanutti Stocks Oro Joint Venture

14 Circuit Road, Westmead
PO Box 1567, Pinetown, 3600
TEL: +27 31 700 1415
FAX +27 31 700 1188

Oro Projects

TAX INVOICE
VAT REGISTRATION NO. 4930269081

CLIENT: MHLATHUZE WATER
CORNER OF SOUTH CENTRAL ARTERIAL AND BATTERY BANK
ALTON
RICHARDS BAY
3900
SOUTH AFRICA

DATE: 23 February 2016

CERTIFICATE NO: Twelve

CONTRACT/PO NO: MW/15/2014
CLIENT VAT NO: 4230103352

CONTRACT: NSEZI WASTE WATER TREATMENT WORKS AND ASSOCIATED BULK INFRASTRUCTURE OF A 20ML RESERVOIR

MEASURED : 23 February 2016

INVOICE NO. B409/13

ORIGINAL CONTRACT VALUE (excl.)	R	43 419 902.71
PLUS (MINUS) NETT VARIATIONS	R	
AMENDED CONTRACT VALUE	R	43 419 902.71

MEASURED WORKS	27 367 229.96
VARIATIONS	4 175 324.71
ADVANCE PAYMENT	5 675 000.00
MATERIALS ON SITE @60% OF	2 773 714.17
	39 981 268.84
CONTRACT PRICE ADJUSTMENT (SEE ATTACHED ESCALATION SHEET)	
	39 981 268.84
LESS: RETENTION at 0%	39 981 268.84
LESS: PREVIOUSLY CERTIFIED	35 605 526.13
	4 375 742.71
ADD: 14% VAT.	612 603.98
TOTAL PAYMENT DUE	4 988 346.69

DATE: 23 February 2016

FOR: STEFANUTTI STOCKS ORO JOINT VENTURE
BANKING DETAILS : NEDBANK
BRANCH : CORPORATE CLIENT SERVICES JHB
ACCOUNT NO. : 1103283609
BRANCH CODE : 145405

COMMISSION OF INQUIRY INTO STATE CAPTURE

Stefanutti Stocks Oro Joint Venture

14 Circuit Road, Westmead
PO Box 1567, Pinetown, 3600
TEL: +27 31 700 1416
FAX +27 31 700 1188

Oro Projects

Date: 2015/10/25

ACCOUNT NO.: B409

MHLATHUZE WATER
PRIVATE BAG X1047
RICHARDS BAY

DATE	REFERENCE	DETAILS	DEBIT	CREDIT
2015/04/24	B409/1	WORK DONE	5 268 344.88	
2015/06/05		PAYMENT RECEIVED		5 268 344.88
2015/05/25	B409/2	WORK DONE	1 394 063.52	
2015/07/09		PAYMENT RECEIVED		1 394 063.52
2015/06/04	B409/3	WORK DONE	8 000 000.00	
2015/06/30		PAYMENT RECEIVED		8 000 000.00
2015/06/18	B409/4	WORK DONE	598 796.54	
2015/06/30		PAYMENT RECEIVED		598 796.54
2015/06/18	B409/5	WORK DONE	740 267.59	
2015/06/30		PAYMENT RECEIVED		740 267.59
2015/07/23	B409/6	WORK DONE	6 739 216.76	
2015/08/04		PAYMENT RECEIVED		6 739 216.76
2015/08/24	B409/7	WORK DONE	2 321 935.09	
2015/09/30		PAYMENT RECEIVED		2 321 935.09
2015/09/22	B409/8	WORK DONE	3 179 171.89	
2015/10/23	B409/9	WORK DONE	5 903 091.75	
			34 144 886.02	25 062 624.38

90 DAYS	60 DAYS	30 DAYS	CURRENT	TOTAL
0.00	0.00	3 179 171.89	5 903 091.75	9 082 263.64

B409.10

9000 863.89

DD34-DCM-383

MHLATHUZE WATER CREDITOR'S RECONCILIATION

CREDITORS NAME: STEFANUTTI STOCKS ORO JOINT VENTURE
ADDRESS: P.O.BOX 1867
PINETOWN
POSTAL CODE: 3600

DATED: 30/09/2015

BALANCE PER STATEMENT					R 9 082 263.84
LESS: PAYMENTS NOT CREDITED					R (3 179 171.99)
DATE	CHEQUE NUMBER	AMOUNT	DETAILS		
29/10/2015	EFT	3179171.99		R -	
LESS: INVOICES OUTSTANDING (CERTIFIED COPIES PLEASE)					
DATE	INVOICE NUMBER	AMOUNT	DETAILS		
				R -	
LESS: GOODS RETURNED FOR CREDIT (CREDIT NOTES PLEASE)					
DATE	GRN/INV NUMBER	AMOUNT	DETAILS		
				R -	
SUB TOTAL					R 3 097 772.08
ADD: INVOICES NOT ON STATEMENT					
DATE	INVOICE NUMBER	AMOUNT	DETAILS		
30/10/2015	B409/10	3 097 772.09		R -	
ADD: CREDIT NOTES OUTSTANDING					
DATE	CREDIT NOTE NO	AMOUNT	DETAILS		
				R -	
OTHER					R 9 000 863.84
TOTAL AMOUNT DUE:					R 9 000 863.84
LESS: DISCOUNT					
NET AMOUNT DUE:					R 9 000 863.84

ELECTRONIC TRANSFER EFT DATE: 30/11/2015
OUR CHEQUE NUMBER DATE:

BATCH NO:

NOTE: IF YOU HAVE ANY QUERIES, PLEASE CONTACT MAYA GOUNDEN
TEL NO: 032 947 0000 EXT: 085 FAX NO: 086 - 6021106

BALANCE AS PER AGE ANALYSIS:	R 9 000 863.84
ADD: LESS CURRENT	R -
BALANCE AS PER RECONCILIATION:	R 9 000 863.84

Prepared by:-
Acc payable Admin.
Maya Gounden
Date:- 25/11/2015

Checked by:-
Snr Acc payable Admin
Irene Chetty
26/11/15

Payment processed by
1st Authorised signatory
Date 27/11/15

Payment processed by
2nd Authorised signatory
Date:-

INVOICES FOR PAYMENT		
SUPPLIER:	STEFANUTTI STOCKS ORO JOINT VENTURES	
CODE:		
DATE:	30 November 2015	
INV DATE	INV NO.	INV AMT
23/10/2015	B409/9	5 903 091.75
30/10/2015	B409/10	3 097 772.09
	TOTAL	R 9 000 863.84

COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-385

ɔthuze Water
ate Bag X1047
ıards Bay
AZULU NATAL
)0

POSTED
30 -10- 2015

O JOINT VENTURE
: CIRCUIT ROAD, WESTMEAD, PINETOWN, 3610
O. BOX 1567, PINETOWN 3600
)01

Fax
VAT number 4230103352

MHLATHUZE WATER AWARD

Delivery Note

Delivery number	B409/9
Date	30/10/2015
Page	1 of 1
Purchase order	PO000017029
Internal product receipt	00033481_046
Buyer Id	Andile Nyide

ɔquisition	Item number	Item name	Description	Ordered	Unit	Received	Remaining quantity	Purchase price	Net amount
00022279	1481	NS-PP&E - Civil works	SSO JV on the Nsezi WTW &associated infrastructure- Construction of a 20MLReservoir MW/15/2014	22 543 438.56	EACH	5 178 150.66	17 365 287.90	1.00	5 178 150.66
			Quantity : 5 178 150.66 Warehouse : MO						5 178 150.66

PROCESSED
30 -10- 2015

Approval for payment

Originated by : Nqobile Chonco

Authorised by : Simphiwe Yalu
~~Sibusiso Makhanya~~

Date Approved : 04/11/2015

27/11/15

WAZULU NATAL
ID

D JOINT VENTURE

, CIRCUIT ROAD, WESTMEAD,
INETOWN, 3610
.O. BOX 1567, PINETOWN 3600
101

Telephone +27 33 902 1000
Fax
VAT registration number 4230103352

Invoice

Number B409/9
Date 10/30/2015
Page Page 1 of 1
Purchase order PO0000017029

Internal number 00043037_047
Payment Net 30 days

am umber	Description	Quantity	Size	Colou r	Configuration	Unit	Unit price	Discount percent	Discount	Amount
81	SSO JV on the Nsed WTW &associated infrastructure- Construction of a 20MLReservoir MW/15/2014	5,178.150. 66				EACH	1.00	0.00	0.00	5,178,150.66

ubtotal

ount	Total discount	Charges	VAT	Round-off	Total	Currency
78,150.66	0.00	0.00	724,941.09	0.00	5,903,091.75	ZAR

MHLATHUZE WATER
AANBEVEEL
RECOMMENDED
GOEDGEKEUR
APPROVED
DATUMS 2015/11/04
DATES 2015/11/04

27/11/15

POSTED
30-10-2015

PROCESSED
30-10-2015

COMMISSION OF INQUIRY INTO STATE CAPTURE

Stefanutti Stocks Oro Joint Venture

14 Circuit Road, Westmead
PO Box 1567, Pinelown, 3600
TEL: +27 31 700 1416
FAX +27 31 700 1188

Oro Projects

TAX INVOICE
VAT REGISTRATION NO. 4930269081

DATE: 23 October 2015

CLIENT: MHLATHUZE WATER
CORNER OF SOUTH CENTRAL ARTERIAL AND BATTERY BANK
ALTON
RICHARDS BAY
3900
SOUTH AFRICA

CERTIFICATE NO: Eight

CONTRACT/PO NO: MW/15/2014
CLIENT VAT NO: 4230103352

CONTRACT: NSEZI WASTE WATER TREATMENT WORKS AND ASSOCIATED BULK INFRASTRUCTURE OF A 20ML RESERVOIR

MEASURED : 23 October 2015

INVOICE NO. B409/8

ORIGINAL CONTRACT VALUE (excl.)	R	43 419 902.71
PLUS (MINUS) NETT VARIATIONS	R	
AMENDED CONTRACT VALUE	R	43 419 902.71

PROCESSED 30-10-2015

MHLATHUZE WATER
AANBEVEEL DATUMS 2015/10/27
RECOMMENDED
GOEDGEKEUR
APPROVED : DATES 2015/11/2
ATTACHED ESCALATION SHEET

27/11/15
02/11/15

MEASURED WORKS		23 019 406.85
VARIATIONS		1 386 576.04
ADVANCE PAYMENT		3 517 543.86
MATERIALS ON SITE @80% OF		2 028 129.41
		29 951 656.16
CONTRACT PRICE ADJUSTMENT (SEE ATTACHED ESCALATION SHEET)		29 951 656.16
LESS: RETENTION at 0%		29 951 656.16
LESS: PREVIOUSLY CERTIFIED		24 773 505.50
		5 178 150.66
ADD: 14% VAT.		724 941.09
TOTAL PAYMENT DUE		5 903 091.75

POSTED 30-10-2015

DATE: 23 October 2015

FOR: STEFANUTTI STOCKS ORO JOINT VENTURE
BANKING DETAILS : NEDBANK
BRANCH : CORPORATE CLIENT SERVICES JHB
ACCOUNT NO. : 1103253609
BRANCH CODE : 145405

PAID

HATCH GOBA
Member of the Hatch Group

25 Richefond Circle, Ridgeside Office Park,
Umhlanga, 4319, South Africa
P O Box 25401, Gateway, 4321, South Africa
Tel: +27 31 536 9400•Fax: +27 31 536 9500•www.hatch.ca

Hatch Goba (Pty) Ltd.
Reg. No. 1995/007273/07

23 October 2015

Miss Andile Ngwane
Mhlathuze Water
Cnr of South Central Arterial and Battery Bank
Alton
Richards Bay
3900

Dear Madam,

Nsezi WTW and Associated Bulk Infrastructure - Construction of a 20 ML Reservoir

Contract No. MW/15/2014 - Payment Certificate No. 9

Attached for your further attention, please find Payment Certificate No. 9 on the above-mentioned Contract, together with the Contract's VAT invoice amount certified as payable.

The Certificate covers work completed up to 20 October 2015.

Yours faithfully

K Slater Pr Eng

MHLATHUZE WATER
RECEPTION
26 -10- 2015

KS :nr
Ref.: Payment Certificate No. 09
Attachment(s)/Enclosure: Payment Certificate No. 9
cc: SSO JV, Mr John Woodburn

Directors: T.T. Gobe (Chairman), *J.G. Biancheri (Vice-Chairman), R.H. Astell, A.G. Auret, V. Beepath, H.J. Bester, J. Sibanyoni, C.M. Simmer, P. Olivier, P Lala
*Canadian

Safety • Quality • Sustainability • Innovation

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MHLATHUZE WATER
CERTIFICATE OF PROGRESS PAYMENT

CLIENT	MHLATHUZE WATER	PAYMENT NO	23-Oct-15
CONTRACT NO	MW/15/2014		09
CONTRACT	NSEZI WTW & ASSOCIATED INFRASTRUCTURE - CONSTRUCTION OF A 20 ML RESERVOIR		
CONTRACTOR	SSO JV		
CONTRACT AMOUNT			R 43 419 902.71
VARIATION ORDERS			R 4 341 990.27
ESCALATION			R 4 778 189.30
TOTAL CONTRACT AMOUNT			R 7 355 331.52
			R 59 893 413.80

PREVIOUS PAYMENTS		
Cert No.	Amount	14 % VAT
1	R 4 621 356.15	R 646 989.72
2	R 1 222 852.74	R 171 200.76
3	R 7 017 543.86	R 982 456.14
4	R 525 260.12	R 73 536.42
5	R 649 357.54	R 90 910.06
6	R 5 911 593.85	R 827 623.11
7	R 2 036 785.17	R 285 149.92
8	R 2 788 747.27	R 390 424.62
Total	R 24 773 505.50	R 3 468 290.77

Value of work done	R [illegible]	R [illegible]
Advance Payment (Add 14% VAT)	R [illegible]	R [illegible]
Escalation (Add 14% VAT)	R [illegible]	R [illegible]
Materials on Site (80%) (Add 14% VAT)	R [illegible]	R [illegible]
Variation Orders (Add 14% VAT)	R [illegible]	R [illegible]
Savings (add 14% VAT)	R [illegible]	R [illegible]
Total Previous payments (Add 14% VAT)	R 24 773 505.50	R 3 468 290.77
Retention money (Add 14% VAT)	R [illegible]	R [illegible]
TOTAL PAYMENT NOW DUE (VAT Incl.)	R 5 903 091.75	R [illegible]

I certify that the payment is in accordance with the terms of the contract and that the work to the value of the amount payable has been properly performed.

CERTIFIED CORRECT

for Contractor - SSO JV

26-10-2015

DATE

for Engineer - Haloh Goba (Pty) Ltd

26/10/2015

DATE

for Employer - Mhlathuze Water

2015/10/27

DATE

Oro Projects

Ref. B409/9

23 October 2015

HATCH GOBA
25 Riche fond circle
Ridgeside Office Park
Umhlanga
4319

Attention: Mr. Kendall Slater

Dear Sir,

Re: CONTRACT MW/15/2014 - NSEZ WASTE WATER TREATMENT WORKS AND ASSOCIATED BULK INFRASTRUCTURE OF A 20ML RESERVOIR

Enclosed herewith please find our payment application No.8 for period ending 20 October 2015

We trust the above meets with your approval and hold ourselves available should you require any further documentation or clarrification.

Youre faithfully

Muhammad Haffajee

COMMISSION OF INQUIRY INTO STATE CAPTURE

STEFANUTTI STOCKS ORO PROJECTS JOINT VENTURE
PAYMENT APPLICATION SUMMARY

Oro Projects

DATE: 23 October 2015

CLIENT: MHLATHUZE WATER
CORNER OF SOUTH CENTRAL ARTERIAL AND BATTERY BANK
ALTON
RICHARDS BAY
3900

CERTIFICATE NO: Eight(8)

CONTRACT NO: MW/15/2014

ORDER NO:

CONTRACT: NSEZI WASTE WATER TREATMENT WORKS AND ASSOICIATED BULK INFRASTRUCTURE OF A 20ML RESERVOIR

MEASURED : 23 October 2015

INVOICE NO. 8409/9

CONTRACT SUMMARY (All values exclusive of vat)	
ORIGINAL CONTRACT VALUE (Contract Award)	43 419 902.71
CONTRACT PRICE ADJUSTMENTS (Estimated)	
APPROVED CHANGES	
AMENDED CONTRACT VALUE	43 419 902.71

Measured Work to Date			23 019 406.85
ADD: Approved Changes			1 386 576.04
ADD: Contract Price Adjustment	Refer to Attached Calculation Sheet		-
ADD: Interest Charges			-
Advance Payment			3 517 543.86
Advance Payment Adjustment			-
	Subtotal 1		27 923 526.75
DDT: Retention	0%	-	-
	Subtotal 2		27 923 526.75
DDT: Discount Early Payment			-
	Subtotal 3		27 923 526.75
ADD: Materials on Site	80%	-	2 028 129.41
Total Claimed to Date	Subtotal 4		29 951 656.16
DDT: Previously Certified			24 773 505.50
	Subtotal 5		5 178 150.66
ADD: Vat	14%	724 941.09	
	TOTAL PAYMENT DUE		[illegible]

DATE: 23 October 2

FOR: STEFANUTTI STOCKS ORO JOINT VENTURE

New Company 28/04/15 15:44:53 MH

MW/15/2014 - Nsezi WTW- October 2015 (MH)

INTERIM VALUATION OCTOBER 2015

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
		NSEZI WTW AND BULK INFRASTRUCTURE - CONSTRUCTION OF A 20Ml RESERVOIR							
		SECTION A: PRELIMINARY AND GENERAL							
	1.1	FIXED-CHRAGE ITEMS							
154	1.1.1	Contractual requirements (main contractor)	Sum	1	1	0	1	4,630,456.44	4,630,456.44
		Establishment of Facilities on Site:							
		Facilities for the Engineer							
	1.1.2	a) Furnished office an conference room	sum	1	1	0	1	133,026.60	133,026.60
	1.1.4	d) Carports	sum	1	1	0	1	11,970.00	11,970.00
	1.2	Time related items							
	1.2.1	Contractual requirements (Dur - 12 months)	sum	1	0.42	0.08	0.5	3,240,005.16	1,620,002.58
		j) Plant (Contractor to specify)							
	1.2.16	Supervision for duration of constr (main contractor)	sum	1	0.42	0.08	0.5	1,812,501.94	906,250.97
	1.2.18	Other time related obligations	sum	1	0.42	0.08	0.5	1,452,275.61	726,137.81
	1.3	Provisional Sums							
	1.3.1	Allow for acceptance control testing	Prov $	100,000	12,950	0	12,950	1.00	12,950.00
	1.3.2	Overheads, charges, profit on item 1.3.1 above	%	100,000	12,950	0	12,950		1,942.50
		Total Page 154 7,942,736.90							
	1.4	Temporary Works							
155	1.4.1	Main access road to the works	sum	1	1	0	1	47,659.75	47,659.75
		Total Page 155 47,659.75							
		SECTION B: EARTHWORKS							
		PIPELINE							
		EARTHWORKS (PIPE TRENCHES)							
	2.1	Site Clearance							
		RUNNING TOTAL							7,990,396.65

New Company 28/04/15 15:44:53 MH

MW/15/2014 - Nsezi WTW- October 2015 (MH)

INTERIM VALUATION OCTOBER 2015

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
158	2.1.1	a) Clear veg and trees of girth up to 1m along pipeline route for a working strip of up to 20m	m	266	216.63	0.00	216.63	238.48	51,667.89
	2.1.2	c) Remove top soil to the depth of 200mm and stockpile	m2	5,720	4,332.50	0.00	4,332.50	4.06	17,599.38
	2.1.3	Take down existing fences and replace when works complete	m	125	96.64	0.00	96.64	182.85	17,670.62
	2.2	Excavation							
		a) Excavate in all materials for trenches, backfill and compact to a minimum 93% of Mod AASHTO density, including disposal of surplus and unsuitable material as directed by the Engineer for:							
		1) Pipe dia over 900mm and upto and including 1220mm for trench depth:							
	2.2.1	1) Depth exceeding 2.0m but less than 3.0m	m	266	160.35	0.00	160.35	171.64	27,522.47
	2.2.2	2) Depth exceeding 3.0m but less than 4.0m	m	20	55.72	0.00	55.72	189.56	10,751.84
	2.4	Existing services that intersect or adjoin a pipe trench							
		a) Services that intersect a trench							
	2.4.1	200 Diameter and above	no	5	2	0	2	624.89	1,249.78
	2.5	Chamber excavation							
		Restricted excavation							
	2.5.1	a) Restricted excavation beyond the limits of the pipe trench for chambers to net outline of structure and to underside of blinding layers and for sumps including for backfilling, compaction and disposal of surplus material	m3	570	1,157.39	0.00	1,187.39	166.79	197,043.76
		Total Page 158 328,486.42							
		RESERVOIR							
	2.6	EARTHWORKS							
		Site preparation							
		RUNNING TOTAL							8,313,883.07

DD34-DCM-394

INTERIM VALUATION OCTOBER 2015

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
157	2.6.1	Clear and srtip site	m2	2,700	5,602.59	0.00	5,602.59	4.16	23,306.77
	2.6.2	Remove topsoil to nominal depth of 200mm, stockpile and maintain	m2	2,700	5,602.59	0.00	5,602.59	4.06	22,746.52
	2.7	Bulk excavation							
	2.7.1	a) Excavate in all materials and use for embankment or backfill	m3	8,500	10719.68	0.00	10719.68	38.11	408,564.14
	2.8	Restricted excavation Excavate for restricted foundations and footings							
	2.8.1	1) Stockpile or dispose within freehaul distance of 0.5km	m3	4,400	4,736.3	0.0	4,736.3	24.50	116,039.35
	2.9	Engineered fill Import material from commercial sources:							
	2.9.1	1) G6 material to Reservoir base 1000mm compacted to minimum 98% Mod AASHTO density in layers not more than 200mm	m3	2,100	2,728.06	0.00	2,728.06	459.50	1,253,543.57
	2.9.2	2) G7 material to Reservoir base 1000m compacted to minimum 98% Mod AASHTO density in layers not more than 200mm	m3	2,100	2,231.23	0.00	2,231.23	328.39	732,512.81
	2.9.3	Supply and lay geogrid fleximesh or similar geosynthetic materials, to manufacturers requirements Total Page 157 5,501,577.19 SECTION C: PIPELINE MEDIUM - PRESSURE PIPELINES	m2	2,100	14022.78	0.00	14022.78	210.01	2,944,924.03
	3.1	Supply, weld, lay, bed, test and disinfect pipes complete with couplings in trenches Grade X42 steel pipe to SANS 719, with coating and lining as specified on drawings and specifications							
158	3.1.1	1200NB 10mm wall thickness EO PSL 6.2.1 above for Supplying, laying and bending of specials complete with couplings	m	286	50.00	61.6	111.6	14,700.97	1,640,628.25
		RUNNING TOTAL							15,456,688.51

New Company 28/04/15 15:44:53 MH

MW/15/2014 - Nsezi WTW- October 2015 (MH)

INTERIM VALUATION OCTOBER 2015

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
		a) 1200NB Steel Bends-Bevel ended							
	3.1.5	b) 1200NB X 1200NB Long Radius	no	3	1	0	1	97,804.82	97,804.82
	3.2	Inlet chamber no 1 and 2							
	3.2.1	Item No 1 - Steel pipe grade X42	no	4	2	0	2	115,259.26	230,518.52
		Total Page 158 1,968,951.59							
	3.4	Outlet chamber no 1							
159	3.4.1	Item No 1 - 1200 NB Steel pipe grade X42	no	1	1	0	1	87,949.67	87,949.67
	3.4.3	Item no 3 - DN1200 Steel flange adaptor	no	1	1	0	1	26,223.89	26,223.89
	3.4.4	Item No 4 - 1200 NB Steel pipe grade X42	no	1	1	0	1	80,320.23	80,320.23
	3.5	Scour chamber fittings							
	3.5.1	Item no 1 - 400NB Steel pipe grade X42	no	1	1	0	1	15,919.87	15,919.87
	3.5.2	Item no 2 - DN400 Restrained Steel flange adaptor	no	1	1	0	1	5,431.52	5,431.52
	3.5.3	Item no 3 - 400NB Steel pipe grade X42, 90 degree short	no	1	1	0	1	16,014.45	16,014.45
	3.5.4	Item no 3 - 400NB Steel pipe grade X42, 8mm thick wall	no	1	1	0	1	11,658.73	11,658.73
	3.6	Reservoir inlet fittings							
	3.6.1	Item no 1 - 1500NB x 1200NB Steel Ballmout grade X42	no	1	1	0	1	32,881.34	32,881.34
	3.6.2	Item no 2 - 1200NB Steel Short radius 3 segmented bend gate	no	1	1	0	1	98,312.51	98,312.51
	3.6.3	Item no 3 - 1200NB Steel pipe grade X42	no	1	1	0	1	163,686.83	163,686.83
	3.7	Reservoir outlet fittings							
	3.7.1	Item no 1 - 1500NB x 1200NB Steel Ballmout grade X42	no	1	1	0	1	24,835.54	24,835.54
	3.7.2	Item no 2 - 1200NB Steel Short radius 3 segmented bend gate	no	1	1	0	1	89,886.79	89,886.79
	3.7.3	Item no 3 - 1200NB Steel pipe grade X42	no	2	1	0	1	112,891.39	112,891.39
		Total Page 159 745,211.96							
		RUNNING TOTAL							16,629,623

INTERIM VALUATION OCTOBER 2015

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
	3.8	Reservoir overflow fitings							
160	3.8.3	Item no 3 - 1200NB Steel pipe grade X42	no	1	1	0	1	47,629.18	47,629.18
	3.8.4	Item no 4 - 1200NB Steel Short radius 3 segmented bend grade	no	1	1	0	1	50,207.52	50,207.52
	3.8.5	Item no 5 - 1200NB Steel pipe grade X42	no	1	1	0	1	98,455.10	98,455.10
	3.9	Scour chamber fittings							
	3.9.1	Item no 1 - 400NB Steel pipe grade X42	no	1	1	0	1	19,501.28	19,501.28
	3.9.2	Item no 2 - 400NB Steel pipe grade X42,	no	1	1	0	1	17,035.80	17,035.80
	3.9.3	Item no 3 - 400NB Steel pipe grade X42, 8mm thick wall	no	6	6	0	6	12,481.28	74,887.68
	3.9.4	Item no 4 - 400NB Steel pipe grade X42,	no	1	1	0	1	18,651.79	18,651.79
	3.9.5	Item no 5 - 400NB Steel pipe grade X42,	no	1	1	0	1	33,414.81	33,414.81
		Total Page 160 359,783.14							
		BEDDING PIPES							
	3.15	Supply of bedding from trench excavations							
161	3.15.2	b) Selected fill material	m3	100	0	49.104	49.104	37.19	1,826.18
		Supply of bedding by importation from commercial sources							
	3.15.4	a) Selected granular material	m3	1,016	320	0	320	326.78	104,569.60
	3.16	Stormwater Drainage							
		Supply, lay, etc							
	3.16.1	a) 1050mm ND class 500	m	50	19.52	0.00	19.52	2,316.33	45,214.76
		Total Page 161 151,610.54							
		SECTION D: STRUCTURES							
		CHAMBERS							
	4.1	Formwork							
162	4.1.1	Rough vertical to exposed faces	m2	300	254.27	0.00	254.27	407.68	103,669.79
	4.1.2	a) Smooth vertical	m2	300	216.23	0.00	216.23	427.77	92,496.71
	4.1.3	b) Smooth horizontal	m2	100	.0	29.05	29.05	589.90	17,138.60
		RUNNING TOTAL							17,254,311.59

DD34-DCM-397

INTERIM VALUATION OCTOBER 2015

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
		Formwork to narrow widths up to 300mm wide							
	4.1.4	a) Rough vertical	m	105	122.26	0.00	122.26	224.03	27,389.81
	4.1.5	b) Smooth vertical	m	120	0	40.13	40.13	224.03	8,990.32
	4.1.6	Forming rectangular holes in roof slab up to 250mm thick for manhole frames 925mm x 825mm	no	5	0	3	3	563.19	1,689.57
		Casting pipework into walls up to 800mm thick. Wrapping of pips measured elsewhere							
	4.1.7	a) DN1200 - through inlet and outlet chamber walls	no	7	4	0	4	4,624.81	18,499.24
	4.1.8	b) DN400 - through scour chamber walls	no	2	2	0	2	1,251.39	2,502.78
	4.2	Unformed surface finish							
	4.2.1	a) Wood float to roof slabs	m2	180	127.69	28.05	156.74	17.10	2,680.25
	4.3	Reinforcement							
	4.3.2	High tensile steel bars	t	30	10.55	3.27	13.82	11,455.62	158,319.43
	4.4	Concrete							
	4.4.2	Blinding layer 15mpa/19mm to min 75mm	m2	180	127.69	0.00	127.69	129.83	16,577.99
		Strength concrete							
	4.4.4	Grade 30mpa/19mm Chamber floor slabs	m3	55	34.83	2.59	37.42	1,684.78	63,044.47
	4.4.5	Grade 30mpa/19mm Chamber walls	m3	125	78.84	0.00	78.84	1,694.95	133,629.86
	4.4.6	Grade 30mpa/19mm Chamber roof slabs	m3	17	0	7.29	7.29	1,684.78	12,282.65
	4.5	Manufacture and erect precast elements							
	4.5.1	a) Pre-cast planks to inlet Chamber no 1 and 2 roof slabs as shown in drawing H346307-0000-50-035-0001-001	no	26	0	13	13	2,805.73	36,474.49
	4.5.2	b) Pre-cast planks to outlet chamber no 1 roof slabs as shown in drawing H346307-0000-50-035-0004-001	no	9	0	9	9	2,322.49	20,902.41
	4.5.3	b) Pre-cast planks to outlet chamber no 2 roof slabs as shown in drawing H346307-0000-50-035-0002-001	no	5	0	5	5	1,792.49	8,962.46
		RUNNING TOTAL							17,766,256.81

INTERIM VALUATION OCTOBER 2015

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
	4.5.4	d) Pre-cast planks to scour chamber roof slabs as shown in drawing H346307-0000-50-035-0003-001	no	3	0	3	3	2,881.42	8,644.26
	4.6	Miscellaneous							
	4.6.2	Supply and install polymer manhole cover and frame - Type 9E 'Maverick' or similar approved including locking mechanism all as per typical detail on drawing number H346307-0000-50-035-0001-001	no	5	0	3	3	2,468.35	7,405.05
	4.6.3	Supply lock and keys for above mechanism	no	5	0	3	3	879.68	2,639.04
		Total Page 162 743,927.67							
		Reservoir							
	4.7	Formwork							
		Rough to:							
163	4.7.2	Narrow widths (500mm) to wall footing edge, external, circular	m	155	154.88	0.00	154.88	228.05	35,329.38
	4.7.3	Narrow widths (250mm) to wall footing shear key	m	148	146.98	0.00	146.98	186.70	27,273.14
		Smooth to:							
	4.7.4	Vertical to internal and external wall, circular	m2	3,600	474.24	1,293.84	1,768.08	351.56	621,586.20
	4.7.8	Narrow widths (400mm) to buttress edge	m	103	24.00	24	48	298.71	14,338.08
	4.7.9	Form recesses in buttress for anchorages as indicated on drawing number: H346307-0000-30-035-0004-001	no	90	32.00	32	64	238.87	15,294.08
	4.7.10	Narrow widths (1000mm) to scour sump internal	m	10	9	0	9	748.78	6,721.02
		Casting pipework into slab up to 300mm thick. Wrapping of pipe measured elsewhere							
	4.7.13a	a) DN1200 - through reservoir slab	no	3	3	0	3	5,675.59	17,026.77
	4.8	Reinforcement							
	4.8.1	Mild steel of all diameters	t	26	0.82	0.00	0.02	11,455.82	229.12
	4.8.2	High tensile steel of all diameters	t	250	115.25	39.72	154.97	11,455.82	1,775,308.43
		RUNNING TOTAL							20,298,042.38

MHLATHUZE

WATER • AMANZI

REPORT ON THE INVESTIGATION INTO NSEZI BALANCING RESERVOIR PROJECT CONTRACTOR: SSO JOINT VENTURE RE: R2 200 000.00 AND R1 923 489.92 IRREGULAR EXPENDITURE

ANNEXURE A

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

1003B Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
T (031) 305 7537 F (031) 305 7538
admin@mhlangainc.co.za

COMMISSION OF INQUIRY INTO STATE CAPTURE

Enquiries/Navrae: Sibusiso Makhanya
e-mail address/e-pos adres: smakhanya@mhlathuze.co.za
Our reference/Ons verwysing: Letter of Appointment: MW/03/2013
Your reference/U verwysing: MW/03/2013

MHLATHUZE WATER

23 DECEMBER 2013

HATCH GOBA (PTY) LTD
P. O. BOX 25401
GATEWAY
4321

Fax/Email: 031-536 9500

Attention: Mr D Nozaic

Dear Sir

LETTER OF APPOINTMENT – PROFESSIONAL SERVICE BID FOR WORK PACKAGE 3 : AUGMENTATION OF NSEZI WATER TREATMENT WORKS

Mhlathuze Water hereby appoints you for the Professional Services Bid for Work Package 3, as detailed in the scope of works in the tender document for the tendered price of **R 2 961 944,50 including VAT.**

The appointment is subject to the following:

- Expenditure limited to R 7500,00, for (inception, concept and viability) unless approved by Mhlathuze Water for further stages.
- Submission of a subcontract agreement with a 100% black owned company, subject to approval by Mhlathuze Water, for a minimum of 30% of the awarded contract value.

For the commencement dates of this appointment kindly liaise with Ms Zama Zuma on contact number 095 902 1086 or email: zzuma@mhlathuze.co.za

On acceptance of appointment you will be requested to sign the tender document as the condition of contract. This letter forms part of the conditions of the agreement.

Please note that this appointment does not bind Mhlathuze Water in any way to appointing you or your firm for any further phases or stages that may be identified as a result of this appointment.

Yours faithfully,

Mr Sibusiso Makhanya
Acting Chief Executive Officer

23/12/13
Date

Acceptance of appointment for contract MW/03/2013 WORK PACKAGE 3 by:

Kendall Slater

Name and surname: On behalf of HATCH GOBA PTY (LTD)

Signature

7/1/2014

Date

MHLATHUZE
MUNICIPALITY

Rejection of appointment for contract MW/03/2013 WORK PACKAGE 3 by:

Name and surname: On behalf of HATCH GOBA (PTY) LTD

Signature

Date

Company Stamp:

Cc: Ms Zakithi Magubane
SCM Manager

Cc: Mr T. Potgieter

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO NSEZI BALANCING RESERVOIR PROJECT CONTRACTOR: SSO JOINT VENTURE RE: R2 200 000.00 AND R1 923 489.92 IRREGULAR EXPENDITURE

ANNEXURE B

Prepared by

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Attorneys & Conveyancers

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T (031) 305 7537 F (031) 305 7538
admin@mhlangainc.co.za

COMMISSION OF INQUIRY INTO STATE CAPTURE

POS-02-03-049-02

Enquiries/Navrae: Z Magubane–Tel (035) 902 1037
e-mail address/e-pos adres: zmagubane@mhlathuze.co.za
Our reference/Ons verwysing: Letter of Appointment: MW/15/2014
Your reference/U verwysing: MW/15/2014

MHLATHUZE WATER

11 March 2015

SSO JV
P.O Box 1567
PINETOWN
3600

Dear Sir

Fax/e-mail: Mathew.horwill@stefstocks.co.za

LETTER OF APPOINTMENT – NSEZI WATER TREATMENT WORKS AND ASSOCIATED INFRASTRUCTURE –CONSTRUCTION OF A 20ML RESEVOIR- MW/15/2014

Mhlathuze Water hereby appoints you for the Nsezi Water Treatment Works and Associated Infrastructures , the construction of a 20Ml. Reservoir for the amount of **R59 934 795.80** including **VAT** and **Contingencies;**

For the commencement dates of this appointment kindly liaise with Mr Mboniseni Majola on contact number 035-902 1044 or email: mmajola@mhlathuze.co.za

On acceptance of appointment you will be requested to sign the tender document as the condition of contract. This letter forms part of the conditions of the agreement.

Please note that this appointment does not bind Mhlathuze Water in any way to appointing you or your firm for any further phases or stages that may be identified as a result of this appointment.

Your appointment is subject to five (5) working days objection period which expires on the 18th of March 2015.

Yours faithfully,

Mr A.S. Makhanya
Chief Executive Officer

11/03/15
Date

Acceptance of appointment for contract MW/15/2014 by:

Matthews Horsill.
Name and surname: On behalf of SSO JV

Signature

11/03/2015.
Date

Rejection of appointment for contract MW/15/2014 by:

Name and surname: On behalf of SSO JV

Signature

Date

Company Stamp:

Cc: Ms Zakithi Magubane
SCM Manager

Cc: Mr Mbonisenl Majola
Programme Manager

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO NSEZI BALANCING RESERVOIR PROJECT CONTRACTOR: SSO JOINT VENTURE RE: R2 200 000.00 AND R1 923 489.92 IRREGULAR EXPENDITURE

ANNEXURE C

Prepared by

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Attorneys & Conveyancers
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T (031) 305 7537 F (031) 305 7538
admin@mhlangainc.co.za

COMMISSION OF INQUIRY INTO STATE CAPTURE

ISIBONELO CONSTRUCTION CC

CK/1997/051620/23
P O BOX 9553
RICHARDS BAY, 3900 SOUTH AFRICA
Phone 035 797 5240 Fax/Phone 035 797 5240
email:isibonelo@icyt.net

TAX INVOICE
ISB 09899

TAX INVOICE

VAT No. 4030175733

Customer

Name	SSO JV
Address	14 Circuit Road, Wesmead
City	Durban Code 3600 ZIP
Vat No.	4930269081

Date	30/09/2015
Order No.	MW 13/2015
Rep	
FOB	

Qty	Description	Unit Price	TOTAL
1	Office renovations	R 1 500 000.00	R 1 500 000.00
2	Surge tower refurbishment	R 500 000.00	R 500 000.00

MHLATHUZE WATER

AANBEVEEL RECOMMENDED	DATUMS 2015/11/02
GOEDGEKEUR APPROVED	DATES 2015/11/2

Our banking details are as follows;
Acc Name: Isibonelo Construction cc
Bank Name: Standard bank
Acc No 062014503
Branch Code: 057530
Branch Name: Empangeni

Payment Details

- (●) Cash
- ( ) Cheque
- ( ) Credit Card

Name
CC #
Expires

SubTotal		R 2 000 000.00
Shipping & Handling		
Taxes	SA	R 280 000.00
TOTAL		R 2 280 000.00

PAYMENT TERMS: 30 DAYS FROM DATE OF INVOICE

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO NSEZI BALANCING RESERVOIR PROJECT CONTRACTOR: SSO JOINT VENTURE RE: R2 200 000.00 AND R1 923 489.92 IRREGULAR EXPENDITURE

ANNEXURE D

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

1003B Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
T (031) 305 7537 F (031) 305 7538
admin@mhlangainc.co.za

COMMISSION OF INQUIRY INTO STATE CAPTURE

Reddy, Satha

From: Nishal Ramsaran <nishal.ramsaran@iliso.com>
Sent: Monday, February 08, 2016 4:57 PM
To: Slater, Kendall; Reddy, Satha
Subject: FW: Nsezi WTW: Invoice by client for payment
Attachments: img-Y02142726-0001.pdf

FYI

Regards
Nishal Ramsaran
Civil Engineer (BSc Eng)

ILISO Building, Derby Downs Office Park, 11 Derby Place, Westville, Durban, 3630
P.O. Box 686, Gillitts, 3603
Cell: +27 (0)83 69 68 079 | **Tel:** +27 (0) 31 266 2600 | **Fax:** +27 (0) 31 266 2616 | **Email:** Nishal.Ramsaran@iliso.com
Level 2 BBBEE contributor | 80% Black Owned and Managed | 9001:2008 ISO Certified

From: Ramsaran, Nishal
Sent: 02 November 2015 03:07 PM
To: 'Muhammad.Haffajee@stefstocks.com' <Muhammad.Haffajee@stefstocks.com>; 'Dave.Stewart@stefstocks.com' <Dave.Stewart@stefstocks.com>; Fungai Madziwa (Fungai.Madziwa@stefstocks.com) <Fungai.Madziwa@stefstocks.com>
Cc: 'john.woodburn@stefstocks.com' <john.woodburn@stefstocks.com>; Slater, Kendall <KSlater@hatch.co.za>; 'angwane@mhlathuze.co.za' <angwane@mhlathuze.co.za>; Mbonisemi Majola (MMajola@mhlathuze.co.za) <MMajola@mhlathuze.co.za>
Subject: Nsezi WTW: Invoice by client for payment

Hi Muhammad,

Please find attached invoice from Mhlathuze Water for the R 2 000 000.00 (excl. VAT) payment.

Please make payment to Isibonelo Construction CC.

Regards,

Nishal Ramsaran
Candidate Engineer/ Water Department

HATCH GOBA

Tel: +27 (0) 31 536 9400/ 9499 (Direct)
Fax: +27 (0) 31 536 9500
Cell: +27 (0) 83 69 68 079
25 Richefond Circle, Ridgeside Office Park, Umhlanga, South Africa
www.hatch.co.za

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO NSEZI BALANCING RESERVOIR PROJECT CONTRACTOR: SSO JOINT VENTURE RE: R2 200 000.00 AND R1 923 489.92 IRREGULAR EXPENDITURE

ANNEXURE E

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

10038 Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
T (031) 305 7537 F (031) 305 7538
admin@mhlangainc.co.za

From: Ramsaran, Nishal [mailto:NRamsaran@hatch.co.za]
Sent: 23 October 2015 01:26 PM
To: Andile Ngwane
Subject: MW/15/2014: Invoice payment

Hi Andile,

Just a reminder for the invoice that you want to be paid. Please advise.

Let me know. Thanks

Regards,

Nishal Ramsaran
Candidate Engineer/ Water Department

HATCH GOBA

Tel: +27 (0) 31 536 9400/ 9499 (Direct)
Fax: +27 (0) 31 536 9500
Cell: +27 (0) 83 69 68 079
25 Richefond Circle, Ridgeside Office Park, Umhlanga, South Africa
www.hatch.co.za

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This e-mail and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this e-mail in error please notify the originator of the message. This footer also confirms that this e-mail message has been scanned for the presence of computer viruses. Any views expressed in this message are those of the individual sender, except where the sender specifies and with authority, states them to be the views of Mhlathuze Water. Scanning of this message and addition of this footer is performed by Microsoft ForeFront Security for Exchange . "Please note that for purposes of the Electronic Communications and Transactions Act, NO employees of Mhlathuze Water are authorised to enter into agreements by way of electronic mail or to sign agreements utilising electronic signatures."

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MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO NSEZI BALANCING RESERVOIR PROJECT CONTRACTOR: SSO JOINT VENTURE RE: R2 200 000.00 AND R1 923 489.92 IRREGULAR EXPENDITURE

ANNEXURE F

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

1033B Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
T (031) 305 7537 F (031) 305 7538
admin@mhlangainc.co.za

Reddy, Satha

From: Nishal Ramsaran <nishal.ramsaran@iliso.com>
Sent: Monday, February 08, 2016 5:00 PM
To: Slater, Kendall; Reddy, Satha
Subject: FW: MW/15/2014: invoice payment

Regards
Nishal Ramsaran
Civil Engineer (BSc Eng)

ILISO Building, Derby Downs Office Park, 11 Derby Place, Westville, Durban, 3630
P.O. Box 686, Gillitts, 3603
Cell: +27 (0)83 69 68 079 | Tel: +27 (0) 31 266 2600 | Fax: +27 (0) 31 266 2616 | Email: Nishal.Ramsaran@iliso.com
Level 2 BBBEE contributor | 80% Black Owned and Managed | 9001:2008 ISO Certified

From: Mboniseni Majola [mailto:MMajola@mhlathuze.co.za]
Sent: 28 October 2015 10:15 AM
To: Ramsaran, Nishal <NRamsaran@hatch.co.za>
Cc: Andile Ngwane <angwane@mhlathuze.co.za>
Subject: RE: MW/15/2014: invoice payment

You are welcome

From: Ramsaran, Nishal [mailto:NRamsaran@hatch.co.za]
Sent: Wednesday, October 28, 2015 10:13 AM
To: Mboniseni Majola
Cc: Andile Ngwane
Subject: RE: MW/15/2014: invoice payment

Thanks Mr Majola,

Will try my best.

Regards,

Nishal Ramsaran
Candidate Engineer/ Water Department
HATCH GOBA

Tel: +27 (0) 31 536 9400/ 9499 (Direct)
Fax: +27 (0) 31 536 9500
Cell: +27 (0) 83 69 68 079
25 Richefond Circle, Ridgeside Office Park, Umhlanga, South Africa
www.hatch.co.za

From: Mboniseni Majola [mailto:MMajola@mhlathuze.co.za]
Sent: 28 October 2015 10:09 AM
To: Ramsaran, Nishal
Cc: Andile Ngwane
Subject: RE: MW/15/2014: invoice payment

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO NSEZI BALANCING RESERVOIR PROJECT CONTRACTOR: SSO JOINT VENTURE RE: R2 200 000.00 AND R1 923 489.92 IRREGULAR EXPENDITURE

ANNEXURE G

Prepared by

MHLANGA INC.
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1003B Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
T (031) 305 7537 F (031) 305 7538
admin@mhlangainc.co.za

COMMISSION OF INQUIRY INTO STATE CAPTURE

Dear Nishal

Yes, I think they can but it cannot exceed 10% you must negotiate with them.

Regards

MBONISENI MAJOLA | PROGRAMME MANAGER | MHLATHUZE WATER
Cnr of South Central Arterial and Battery Bank, Alton, Richards Bay, 3900 | P/Bag X1047, Richards Bay, 3900
☎Office: +27 35 902 1044 | ☎Fax: +27 35 902 1109 | **Cell:** 082 640 8753 |
✉ e-mail:mmajola@mhlathuze.co.za
www.mhlathuze.co.za

From: Ramsaran, Nishal [mailto:NRamsaran@hatch.co.za]
Sent: Wednesday, October 28, 2015 7:55 AM
To: Andile Ngwane
Cc: Mboniseni Majola
Subject: RE: MW/15/2014: invoice payment

Hi Andile,

The contractor would like to know if he can put his mark up on this amount.

Please advise.

Thank you!

Regards,
Nishal Ramsaran

Sent from my Windows Phone

From: Andile Ngwane
Sent: 2015-10-23 13:45
To: Ramsaran, Nishal
Cc: Mboniseni Majola
Subject: RE: MW/15/2014: invoice payment

Almost forgot and on my way out, the value is R2 280 000.00 including vat

Will scan and email to your on Monday or can be collected on Monday when dropping off the payments cert.

Regards

Ms ANDILE NGWANE | PROJECT MANAGER | MHLATHUZE WATER
Cnr of South Central Arterial and Battery Bank, Alton, Richards Bay, 3900
P/Bag X1047, Richards Bay, 3900
Office: +27 35 902 1078| (Fax: +27 35 902 1109| *
email: angwane@mhlathuze.co.za
www.mhlathuze.co.za
Please consider the environment before printing this email!

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO NSEZI BALANCING RESERVOIR PROJECT CONTRACTOR: SSO JOINT VENTURE RE: R2 200 000.00 AND R1 923 489.92 IRREGULAR EXPENDITURE

ANNEXURE H

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

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T (031) 305 7537 F (031) 305 7538
admin@mhlanginc.co.za

MAKE THINGS HAPPEN | NEDBANK

Transaction Record

Date: 21/02/2017 Time: 10:57:03 AM

Payment date:	02/12/2015
From account name:	SSO JOINT VENTURE
From account description:	SSO JOINT VENTURE
From account statement description:	Isiphelo Construction cc
Amount:	-2,280,000.00

COMMISSION OF INQUIRY INTO STATE CAPTURE

Profile name:STEFANUTTI STOCKS CIVIL KZN
Profile number:4000093017

User name:TAREN GAIA
User ID:25

MHLATHUZE

WATER • AMANZI

REPORT ON THE INVESTIGATION INTO NSEZI BALANCING RESERVOIR PROJECT CONTRACTOR: SSO JOINT VENTURE RE: R2 200 000.00 AND R1 923 489.92 IRREGULAR EXPENDITURE

ANNEXURE I

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

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T (031) 305 7537 F (031) 305 7536
admin@mhlangainc.co.za

COMMISSION OF INQUIRY INTO STATE CAPTURE

VARIATION ORDER

VARIATION ORDER NO. : Three (3) DATE: 5/8/2016

CONTRACT NUMBER : MW/15/2014

PROJECT TITLE : NSEZ WTW AND ASSOCIATED BULK INFRASTRUCTURE- CONSTRUCTION OF A 20ML RESERVOIR

CONTRACTOR : SSO JV

BRIEF DESCRIPTION : Employer Instruction: Payment to Isibonelo Construction CC

ITEM	DESCRIPTION	QTY	RATE	ADD	OMIT
	Add				
1	Employer Instruction: Payment to Isibonelo Construction CC	1	R 2,000,000.00	R 2,000,000.00	
2	Contractors mark up on above item		10%	R 200,000.00	
TOTAL				R 2,200,000.00	R 0.00
NETT AMOUNT OF THIS VARIATION (EXCLUDING VAT)				R 2,200,000.00	

MOTIVATION FOR VARIATION:

As per clients request, dated 23 October 2015, payment was to be made to Isibonelo Construction CC, as per the attached invoice. The communications received from the Client are attached for further reference.

APPROVAL BY ENGINEER: _____ DATE: 5/8/2016

APPROVAL BY CLIENT: _____ DATE: _____

DISTRIBUTION

1. Client
2. Contractor
3. Engineer

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO NSEZI BALANCING RESERVOIR PROJECT CONTRACTOR: SSO JOINT VENTURE RE: R2 200 000.00 AND R1 923 489.92 IRREGULAR EXPENDITURE

ANNEXURE J

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

1003B Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
T (031) 305 7537 F (031) 305 7538
admin@mhlangainc.co.za

REMITTANCE ADVICE

13

MHLATHUZE WATER

SO JOINT VENTURE

4 CIRCUIT ROAD, WESTMEAD, PINETOWN,
510
.O. BOX 1567, PINETOWN 3600
001

IX: 0865050456

Private Bag X1047
Richards Bay
KWAZULU NATAL
3900
Telephone +27 35 902 1000
Fax:

VAT registration number 4230103352

ACCOUNT No.	DATE
MW1824	24/03/2016

TE	TYPE	ITEM	REFERENCE	SETTLEMENT DISCOUNT	AMOUNT	
03/2016	Payment	B409/13		0.00	4 988 346.69	ZAR
			Total		4 988 346.69	ZAR

Vat No 4230103352 must appear on all invoices for Mhlathuze Water. If it does not appear on the invoice, it is classified as a vat invoice according to legislation and therefore Mhlathuze Water will be unable to pay the invoice

COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-421

MHLATHUZE WATER CREDITOR'S RECONCILIATION

CREDITORS NAME: STEFANUTTI STOCKS ORO JOINT VENTURE
ADDRESS: P.O.BOX 1567
PINETOWN
POSTAL CODE: 3600

MHLATHUZE WATER

BALANCE PER STATEMI — DATED: 25/02/2016 — R 4 988 346.69
LESS: PAYMENTS NOT CREDITED — R -

DATE	CHEQUE NUMBER	AMOUNT	DETAILS

R -

LESS: INVOICES OUTSTANDING (CERTIFIED COPIES PLEASE)

DATE	INVOICE NUMBER	AMOUNT	DETAILS

R -

LESS: GOODS RETURNED FOR CREDIT (CREDIT NOTES PLEASE)

DATE	GRN/INV NUMBER	AMOUNT	DETAILS

SUB TOTAL — R 4 988 346.69
ADD: INVOICES NOT ON STATEMENT — R -

DATE	INVOICE NUMBER	AMOUNT	DETAILS

R -

ADD: CREDIT NOTES OUTSTANDING

DATE	CREDIT NOTE NO	AMOUNT	DETAILS

OTHE

R -

TOTAL AMOUNT DUE: — R 4 988 346.69
LESS: DISCOUNT
NET AMOUNT DUE: — R 4 988 346.69
ELECTRONIC TRANSFER — EFT — DATE: 24/03/2016
OUR CHEQUE NUMBER — DATE:

REMARKS: VAT REG NO: 4050190217 12 — PAY NO: 015-90217-04

BATCH NO:

BALANCE AS PER AGE ANALYSIS: — R 4 988 346.69
ADD: LESS CURRENT — R -
BALANCE AS PER RECONCILIATION: — R 4 988 346.69

Prepared by:-
Acc payable Admin
Maya Gounden
Date:- 24/03/16

Payment processed by
1st Authorised signatory
Date 24/03/2016

Checked by:-
Snr Acc payable Admin
P. Semery
Date:-

Payment processed by
2nd Authorised signatory
Date:- 24/03/2016

Stefanutti Stocks Oro Joint Venture

14 Circuit Road, Westmead
PO Box 1567, Pinetown, 3600
TEL: +27 31 700 1416
FAX +27 31 700 1188

Oro Projects

Date: 25/02/2016

ACCOUNT NO.: B409

MHLATHUZE WATER
PRIVATE BAG X1047
RICHARDS BAY
3900

DATE	REFERENCE	DETAILS	DEBIT	CREDIT
23/07/2015 04/08/2015	B409/6	WORK DONE PAYMENT RECEIVED	6 739 216.76	6 739 216.76
24/08/2015 30/09/2015	B409/7	WORK DONE PAYMENT RECEIVED	2 321 935.09	2 321 935.09
22/09/2015 29/10/2015	B409/8	WORK DONE PAYMENT RECEIVED	3 179 171.89	3 179 171.89
25/10/2015 30/10/2015	B409/9	WORK DONE PAYMENT RECEIVED	5 903 091.75	5 903 091.75
30/10/2015 30/10/2015	B409/10	WORK DONE PAYMENT RECEIVED	3 097 772.09	3 097 772.09
25/11/2015 31/12/2015	B409/11	WORK DONE PAYMENT RECEIVED	2 381 944.75	2 381 944.75
20/01/2016 16/02/2016	B409/12	WORK DONE PAYMENT RECEIVED	965 694.92	965 694.92
23/02/2016	B409/13	WORK DONE	4 988 346.69	
			29 577 173.94	24 588 827.25

90 DAYS	60 DAYS	30 DAYS	CURRENT	TOTAL
0.00	0.00	0.00	4 988 346.69	4 988 346.69

COMMISSION OF ENQUIRY INTO STATE CAPTURE

DD34-DCM-423

Mhlathuze Water
Private Bag X1047
Richards Bay
KWAZULU NATAL
3900

Telephone +27 35 902 1000
Fax
VAT number 4230103352

SSO JOINT VENTURE
14 CIRCUIT ROAD, WESTMEAD, PINETOWN, 3610
P.O. BOX 1567, PINETOWN 3600
4001

POSTED
22-03-2016

Delivery Note

Delivery number	B409/13
Date	22/03/2016
Page	1 of 1
Purchase order	PO000017029
Internal product receipt	00035801_046
Buyer Id	Andile Nyide

Requisition	Item number	Item name	Description	Ordered	Unit	Received	Remaining quantity	Purchase price	Net amount
PR00022279	1481	NS-PP&E - Civil works	SSO JV on the Nsezi WTW &associated infrastructure- Construction of a 20MLResevoir MW/15/2014 Quantity : 4 375 742.71 Warehouse : MO	11 711 417.93	EACH	4 375 742.71	7 335 675.22	1.00	4 375 742.71
									4 375 742.71

PROCESSED
22-03-2016

Approval for payment

Originated by :	Nqobile Chonco	
Authorised by :	N. Ngema (Acting) Sibusiso Makhanya	
Date Approved :		2016/03/22

Mlathuze Water
vate Bag X1047
chards Bay
KWAZULU NATAL
00

Telephone +27 35 902 1000
Fax
VAT registration number 4230103352

Invoice

Number 8409/13
Date 3/22/2016
Page Page 1 of 1
Purchase order PO0000017029
Internal number 00045262_047
Payment Net 30 days

ISO JOINT VENTURE

14 CIRCUIT ROAD, WESTMEAD,
PINETOWN, 3610
P.O. BOX 1567, PINETOWN 3600
4001

PROCESSED
22-03-2016

Item number	Description	Quantity	Size	Colour	Configuration	Unit	Unit price	Discount percent	Discount	Amount
1481	SSO JV on the Nsezi WTW Associated Infrastructure- Construction of a 20ML Reservoir MW/15/2014	4,375,742.71				EACH	1.00	0.00	0.00	4,375,742.71

Sales subtotal amount	Total discount	Charges	VAT	Round-off	Total	Currency
4,375,742.71	0.00	0.00	612,603.98	0.00	4,988,346.69	ZAR

POSTED
22-03-2016

MHLATHUZE WATER

AANBEVEEL	DATUMS
RECOMMENDED	2016/03/22
GOEDGEKEUR	
APPROVED	22/03/2016 DATES

COMMISSION OF INQUIRY INTO STATE CAPTURE

Stefanutti Stocks / Oro JV

14 Circuit Road, Westmead
PO Box 1567, Pinetown, 3600, South Africa
Tel: +27 31 700 1416
Fax +27 31 700 1186
www.stefstocks.com

Oro Projects

RECEIVED BY FINANCE
17 MAR 2016

Client Information
MHLATHUZE WATER
Corner of South Central Aterial and Battery Bank
Alton
Richards Bay
3900

Tax Invoice

B409/13

VAT Number : 4930269081
Invoice Date : 23/02/2016
Order No :
Enquiries to :

Customer VAT No. : 4230103352
Client Reg No.

Description/Comments		Amount
Work done per Certificate # 13 (February 2016) Waste Water Treatment Works & Associated Bulk Infrastructure of a 20 Ml Reservoir P O Number MW 15/2014	400100-B409	4,375,742.71

PAID

PROCESSED
22-03-2016

POSTED
22-03-2016

MHLATHUZE WATER

AANBEVEEL	DATUMS
RECOMMENDED	2016/02/25
GOEDGEKEUR	
APPROVED	2016/2/26
	DATES

Subtotal	4,375,742.71
VAT	612,603.98
Amount Due	4,988,346.69

Bank Details
Nedbank
Branch Code:146405
Branch :Corporate Client Servi
Acct No. 1103 263 609
Acc Name:Stefanutti Stocks / Oro JV
Swift Number.
Reference: B409/13

Invoice Paper Number: 16740

* A Joint Venture between: Stefanutti Stocks Civils KZN, a division of Stefanutti Stocks (Pty) Ltd - Reg No.: 2003/022221/07
ORO Management Services Reg No. : 2000/005744/23

016740 (Stefanutti Stocks control number – this is not the invoice number)

COMMISSION OF INQUIRY INTO STATE CAPTURE

Stefanutti Stocks Oro Joint Venture

14 Circuit Road, Westmead
PO Box 1567, Pinetown, 3600
TEL: +27 31 700 1416
FAX +27 31 700 1188

Oro Projects

TAX INVOICE
VAT REGISTRATION NO. 4930269081

CLIENT:	MHLATHUZE WATER CORNER OF SOUTH CENTRAL ARTERIAL AND BATTERY BANK ALTON RICHARDS BAY 3900 SOUTH AFRICA	DATE:	23 February 2016
		CERTIFICATE NO:	Twelve
CONTRACT:	NSEZI WASTE WATER TREATMENT WORKS AND ASSOICIATED BULK INFRASTRUCTURE OF A 20ML RESERVOIR	CONTRACT/PO NO: CLIENT VAT NO:	MW/18/2014 4230103352
INVOICE NO.	B409/13	MEASURED :	23 February 2016
	ORIGINAL CONTRACT VALUE (excl.)	R	43 419 902.71
	PLUS (MINUS) NETT VARIATIONS	R	
	AMENDED CONTRACT VALUE	R	43 419 902.71

MEASURED WORKS		27 357 229.96
VARIATIONS		4 175 324.71
ADVANCE PAYMENT		6 675 000.00
MATERIALS ON SITE @80% OF		2 773 714.17
		39 981 268.84
CONTRACT PRICE ADJUSTMENT (SEE ATTACHED ESCALATION SHEET)		
		39 981 268.84
LESS:	RETENTION at 0%	
		39 981 268.84
LESS:	PREVIOUSLY CERTIFIED	35 605 526.13
		4 375 742.71
ADD:	14% VAT.	612 603.98
	TOTAL PAYMENT DUE	4 988 346.69

FOR: STEFANUTTI STOCKS ORO JOINT VENTURE
BANKING DETAILS : NEDBANK
BRANCH : CORPORATE CLIENT SERVICES JHB
ACCOUNT NO. : 1103263609
BRANCH CODE : 145405

DATE: 23 February 2016

MHLATHUZE WATER
CERTIFICATE OF PROGRESS PAYMENT

CLIENT	MHLATHUZE WATER		23-Feb-16
CONTRACT NO	MW/16/2014		13
CONTRACT	NSEZI WTW & ASSOCIATED INFRASTRUCTURE - CONSTRUCTION OF A 20 ML RESERVOIR		
CONTRACTOR	SSO JV		
			R 43,419,902.71
			R 4,341,990.27
			R 4,776,189.30
			R 7,355,331.52
			R 59,893,413.80

PREVIOUS PAYMENTS		
Cert No.	Amount	14 % VAT
1	R 4,621,355.15	R 646,989.72
2	R 1,222,862.74	R 171,200.78
3	R 7,017,543.66	R 982,456.14
4	R 525,250.12	R 73,535.42
5	R 649,357.54	R 90,910.06
6	R 5,911,593.65	R 827,623.11
7	R 2,036,785.17	R 285,149.92
8	R 2,788,747.27	R 390,424.62
9	R 5,176,150.66	R 724,941.09
10	R 2,717,343.94	R 380,428.15
11	R 2,089,425.22	R 292,519.53
12	R 847,100.81	R 118,594.11
Total	R 35,505,526.13	R 4,984,773.66

Value of work done			R 27,357,229.96
Advance Payment			R 5,675,000.00
(Add 14% VAT)			R 4,624,512.19
Escalation			R 0.00
(Add 14% VAT)			R 0.00
Materials on Site (80%)			R 2,773,714.17
(Add 14% VAT)			R 388,319.98
Variation Orders			R 4,175,324.71
(Add 14% VAT)			R 584,545.46
Savings			R 0.00
(add 14% VAT)			R 0.00
Total Previous payments	R 35,505,526.13		
(Add 14% VAT)	R 4,984,773.66		
Retention money	R 0.00		
(Add 14% VAT)	R 0.00		
TOTAL PAYMENT NOW DUE (VAT Incl.)	R 4,968,346.69		
	R 45,578,646.48	R 45,578,646.48	

I certify that the payment is in accordance with the terms of the contract and that the work to the value of the amount payable has been properly performed.

CERTIFIED CORRECT

for Contractor - SSO JV

23/02/2016.

DATE

for Engineer - Hatch Goba (Pty) Ltd

23/2/2016

DATE

for Employer - Mhlathuze Water

2016/02/25

DATE

Stefanutti Stocks Oro Joint Venture

14 Circuit Road, Westmead
PO Box 1567, Pinetown, 3600
TEL: +27 31 700 1416
FAX +27 31 700 1188

Oro Projects

Date: 2016/02/23

ACCOUNT NO.: B409

MHLATHUZE WATER
PRIVATE BAG X1047
RICHARDS BAY
3900

DATE	REFERENCE	DETAILS	DEBIT	CREDIT
2015/04/24 2015/08/05	B409/1	WORK DONE PAYMENT RECEIVED	5 268 344.88	5 268 344.88
2015/05/25 2015/07/09	B409/2	WORK DONE PAYMENT RECEIVED	1 394 063.52	1 394 063.52
2015/06/04 2015/06/30	B409/3	WORK DONE PAYMENT RECEIVED	8 000 000.00	8 000 000.00
2015/06/18 2015/06/30	B409/4	WORK DONE PAYMENT RECEIVED	598 796.54	598 796.54
2015/06/16 2015/06/30	B409/5	WORK DONE PAYMENT RECEIVED	740 267.59	740 267.59
2015/07/23 2015/08/04	B409/6	WORK DONE PAYMENT RECEIVED	6 739 216.76	6 739 216.76
2015/08/24 2015/09/30	B409/7	WORK DONE PAYMENT RECEIVED	2 321 935.09	2 321 935.09
2015/09/22 2015/10/29	B409/8	WORK DONE PAYMENT RECEIVED	3 179 171.89	3 179 171.89
2015/10/25 2015/10/30	B409/9	WORK DONE PAYMENT RECEIVED	5 903 091.75	5 903 091.75
2015/10/30 2015/10/30	B409/10	WORK DONE PAYMENT RECEIVED	3 097 772.09	3 097 772.09
2015/11/25 2015/12/31	B409/11	WORK DONE PAYMENT RECEIVED	2 381 944.75	2 381 944.75
2016/01/20 2016/02/16	B409/12	WORK DONE PAYMENT RECEIVED	965 694.92	965 694.92
2016/02/23	B409/13	WORK DONE	4 988 346.69	
			45 578 648.47	40 590 299.78

90 DAYS	60 DAYS	30 DAYS	CURRENT	TOTAL
0.00	0.00	0.00	4 988 346.69	4 988 348.69

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO NSEZI BALANCING RESERVOIR PROJECT CONTRACTOR: SSQ JOINT VENTURE RE: R2 200 000.00 AND R1 923 489.92 IRREGULAR EXPENDITURE

ANNEXURE T

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

1003B Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
T (031) 305 7537 F (031) 305 7538
admin@mhlangainc.co.za

COMMISSION OF INQUIRY INTO STATE CAPTURE

SearchWorks

Unit B4, Arden Grove, Montague Gardens
Tel: +27 86 044 3333, Fax: +27 21 555 3127
Website: http://www.searchworks.co.za

ALISON MBUKENI ZAKWE (6203205948080)

CIPC Director

Search Information

Summary

Search Type	CIPC DIRECTOR
Search Description	ALISON MBUKENI ZAKWE (6203205948080)
Reference	LONDIWE
Date	17/03/2017

Director Information

Summary

Forename(s)	ALLISON MBUKENI
Surname	ZAKWE
ID Number	6203205948080
Gender	MALE
Age	54
Date of Birth	20/03/1962

In Business

Company Name	Registration Number	Director Status
ISIBONELO CONSTRUCTION	1997/051620/23	ACTIVE

Conversion CO/CC or CC/CO

Company Name	Registration Number	Director Status
No information available.		

Deregistration Process

Company Name	Registration Number	Director Status
M T M PLUMBERS	1999/013422/23	ACTIVE

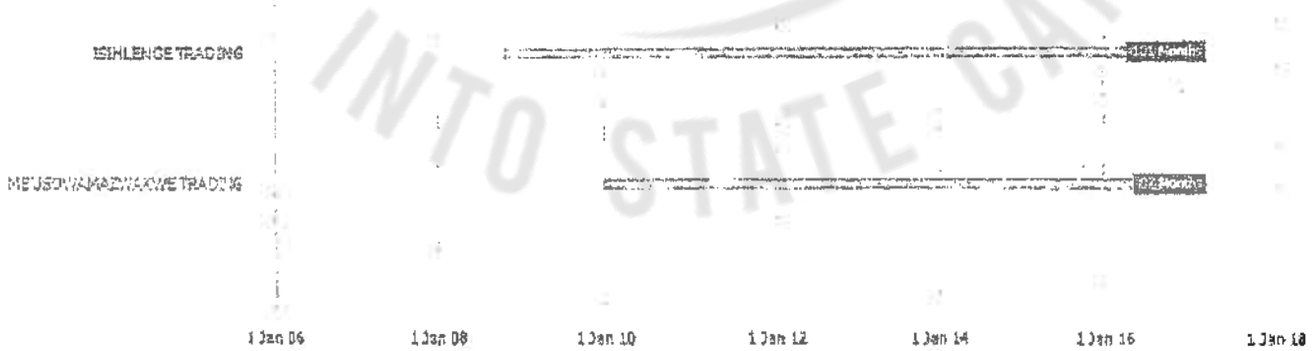
Deregistration Final

Company Name	Registration Number	Director Status
BLUE DISA TRADING 532	2005/068117/23	ACTIVE
ISIHLENGE TRADING	2008/213160/23	ACTIVE
MBUSOWAMAZWAKWE TRADING	2009/227163/23	ACTIVE
TWO STARS LIQUOR WHOLESALE AND RESTAURANT	2005/027446/23	ACTIVE

Directorship Timeline

Directorship Timeline

"Red = director current appointments"



Detailed Information

Directorship 1 of 6

Company Name	BLUE DISA TRADING 532
Company Registration Number	2005/063117/23
Appointment Date	02/09/2005
Designation	
Details Withdrawn From Public	
RSA Resident	
Director Type	MEMBER
Country	
Company Status	AR FINAL DEREGISTRATION
Register Number	
Status Date	
Executor Name	
Trustee Name	
Executor Appointment Date	
Date Form Received	
Date Form Lodged (CM29_DATE)	
Member's Percentage (Size)	51
Founding Statement Date (CK1_2_DATE)	
ribution Type	
Member's Contribution	100
Occupation	
EXCL_CON	0
Nature of Change	
Fine Expiry Date	
Profession	
Nationality Code	
Estate	
Resignation Date	02/09/2005
Registered Address	
Residential Address	14 DRONGO DOMAIN, BIRDSWOOD, RICHARDS BAY, 3900
Business Address	115 DOLLAR DRIVE, RICHARDS BAY, 3900
Postal Address	P O BOX 10457, MEERENSEE, RICHARDS BAY, 3901

COMMISSION OF INQUIRY INTO STATE CAPTURE

Detailed Information (continued)

Directorship 2 of 6	
Company Name	ISIBONELO CONSTRUCTION
Company Registration Number	1997/051620/23
Appointment Date	26/09/1997
Designation	
Details Withdrawn From Public	NO
RSA Resident	YES
Director Type	MEMBER
Country	
Company Status	IN BUSINESS
Register Number	
Status Date	26/09/1997
Executor Name	
Trustee Name	
Executor Appointment Date	
Date Form Received	26/09/1997
Date Form Lodged (CM29_DATE)	
Member's Percentage (Size)	100
Founding Statement Date (CK1_2_DATE)	26/09/1997
Contribution Type	
Member's Contribution	100
Occupation	
EXCL_CON	0
Nature of Change	
Fine Expiry Date	
Profession	
Nationality Code	
Estate	
Resignation Date	30/12/1999
Registered Address	14 DRONGO DOMAIN, BIRDSWOOD, RICHARDS BAY, 3900
Residential Address	SHOP A PROMENADE CENTRE, C\ O LIRA LINK AND TASSELBERRY, RICHARDS BAY, 3900
Business Address	P O BOX 390, RICHARDS BAY, 3900
Postal Address	

COMMISSION OF INQUIRY INTO STATE CAPTURE

Detailed Information (continued)

Directorship 3 of 6

Company Name	ISIHLENGE TRADING
Company Registration Number	2008/213160/23
Appointment Date	06/10/2008
Designation	
Details Withdrawn From Public	NO
RSA Resident	
Director Type	MEMBER
Country	SOUTH AFRICA
Company Status	AR FINAL DEREGISTRATION
Register Number	
Status Date	
Executor Name	
Trustee Name	
Executor Appointment Date	
Date Form Received	06/10/2008
Date Form Lodged (CM29_DATE)	
Member's Percentage (Size)	50
Founding Statement Date (CK1_2_DATE)	
C bution Type	
Member's Contribution	50
Occupation	
EXCL_CON	
Nature of Change	
Fine Expiry Date	
Profession	
Nationality Code	
Estate	
Resignation Date	17/03/2017
Registered Address	
Residential Address	14 DRONGO DOMAIN, BADWOOD, RICHARDS BAY, 3900
Business Address	OFFICE 35, ZCBF COMMUNITY PARK, SOUTH CENTRAL ARTERIAL ALTON, RICHARDS BAY, 3900
Postal Address	P O BOX 9553, RICHARDS BAY, 3900

COMMISSION OF INQUIRY INTO STATE CAPTURE

Detailed Information (continued)

Directorship 4 of 6	
Company Name	M T M PLUMBERS.
Company Registration Number	1999/013422/23
Appointment Date	09/11/2006
Designation	
Details Withdrawn From Public	
RSA Resident	
Director Type	MEMBER
Country	
Company Status	DEREGISTRATION PROCESS
Register Number	
Status Date	
Executor Name	
Trustee Name	
Executor Appointment Date	
Date Form Received	
Date Form Lodged (CM29_DATE)	
Member's Percentage (Size)	50
Founding Statement Date (CK1_2_DATE)	
Contribution Type	
Member's Contribution	50
Occupation	
EXCL_CON	0
Nature of Change	
Fine Expiry Date	
Profession	
Nationality Code	
Estate	
Resignation Date	09/11/2005
Registered Address	MZINGAZI 11977, RICHARDS BAY, 3900
Residential Address	351 A PROGRESS PLACE, WELSEDACHT, KWAZULU-NATAL, 4092
Business Address	
Postal Address	P O BOX 72766, MOBENI, KWAZULU-NATAL, 4092

COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-435

MHLATHUZE

Delegation of Authority: CorporateServices: List of Signatories

Operational Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)	NAME OF OFFCIAL	SIGNATURE
GM:Corporate Services	E1	5,000,000.00	Mandla Myeni	
IT Manager	D3	100,000.00	Kevin Govender	
HR Manager	D3	100,000.00	Vareena Govender	
PR Manager	D2	100,000.00	Zanele Bingwa	
Training & Development Specialist	D1	50,000.00	Nelisiwe Mbatha	
Health & Safety Specialist	C5	50,000.00	Zakhele Mathenjwa	

Capital Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)	NAME OF OFFCIAL	SIGNATURE
GM:Corporate Services	E1	5,000,000.00	Mandla Myeni	
IT Manager	D3	100,000.00	Kevin Govender	
HR Manager	D2	100,000.00	Vareena Govender	
PR Manager	D2	100,000.00	Zanele Bingwa	
Training & Development Specialist	D1	50,000.00	Nelisiwe Mbatha	
Health & Safety Specialist	C5	50,000.00	Zakhele Mathenjwa	

DD34-DCM-436

MHLATHUZE

Delegation of Authority: SCIENTIFIC SERVICES: List of Signatories

Operational Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)	NAME OF OFFCIAL	SIGNATURE
GM: Scientific Services	D4	5,000,000.00	Swaswa Nthloro	
Quality Officer	D1	100,000.00	Duncan Zungu	
Environmental Manager	D3	100,000.00	Xolile Makhoba	
Chemist	C5	50,000.00	Simon Bhengu	
Microbiologist	C5	50,000.00	Nomzamo Nyawo	

Capital Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)	NAME OF OFFCIAL	SIGNATURE
GM: Scientific Services	D4	5,000,000.00	Swaswa Nthloro	
Quality Officer	D1	100,000.00	Duncan Zungu	
Environmental Manager	D3	100,000.00	Xolile Makhoba	
Chemist	C5	50,000.00	Simon Bhengu	
Microbiologist	C5	50,000.00	Nomzamo Nyawo	

DD34-DCM-437

MHLATHUZE

Delegation of Authority: OPERATIONS, MAINTENANCE & PROJECTS: List of Signatories

Operational Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)	NAME OF OFFCIAL	SIGNATURE
Chief Operations Officer	E1	5,000,000.00	Simphiwe Xulu	
Maintenance Manager	D4	2,000,000.00	Celimpilo Cele	
Program Manager	D4	2,000,000.00	Mboniseni Majola	
Operations Manager	D3	2,000,000.00	vacant	
Planning & Development Manager	D3	500,000.00	Bert Kirsten	
Electrical Engineer	D3	50,000.00	Dumisani Mangele	
Project Manager	D2	50,000.00	Andile Ngwane	
Project Manager	D2	50,000.00	Sihle Xaba	
Project Manager	D2	50,000.00	Nompumelelo Ngema	
Process Technologist (CoU)	D1	50,000.00	Khayelihle Mpungose	
Process Technologist (Nsezi)	D1	50,000.00	Sithembile Mtungwa	
Mechanical Engineer	D1	50,000.00	Mbali Nyawo	
Superintendent (Pumpstation)	C5	50,000.00	Mokete Mphasane	
Superintendent (Nsezi)	C5	50,000.00	Christopher Khumalo	
Maintenance Supervisor	C5	50,000.00	Colin Gerber	
Supervisory Artisan (Nsezi)	C4	50,000.00	Joe Dlamini	
Superintendent (Nsezi)	C4	50,000.00	Victor Shandu	
Superintendent (Weir)	C4	50,000.00	Hennie Peach	

DD34-DCM-438

MHLATHUZE

Delegation of Authority: OPERATIONS, MAINTENANCE & PROJECTS: List of Signatories

Capital Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)	NAME OF OFFICIAL	SIGNATURE
Chief Operations Officer	E1	5,000,000.00	Simphiwe Xulu	
Maintenance Manager	D4	2,000,000.00	Celimpilo Cele	
Program Manager	D4	2,000,000.00	Mboniseni Majola	
Operations Manager	D3	2,000,000.00	vacant	
Planning & Development Manager	D3	500,000.00	Bert Kirsten	
Electrical Engineer	D3	50,000.00	Dumisani Manqele	
Project Manager	D2	50,000.00	Andile Ngwane	
Project Manager	D2	50,000.00	Sihle Xaba	
Project Manager	D2	50,000.00	Nompumelelo Ngema	
Process Technologist (CoU)	D1	50,000.00	Khayalihle Mpungose	
Process Technologist (Nsezi)	D1	50,000.00	Sithembile Mtungwa	
Mechanical Engineer	D1	50,000.00	Mbali Nyawo	
Superintendent (Pumpstation)	C5	50,000.00	Mokete Mphasane	
Superintendent (Nsezi)	C5	50,000.00	Christopher Khumalo	
Maintenance Supervisor	C5	50,000.00	Colin Gerber	
Supervisory Artisan (Nsezi)	C4	50,000.00	Joe Dlamini	
Superintendent (Nsezi)	C4	50,000.00	Victor Shandu	
Superintendent (Weir)	C4	50,000.00	Hennie Peach	

DD34-DCM-439

MHLATHUZE

Delegation of Authority: CHIEF EXECUTIVE: List of Signatories

Operational Budget/ Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)	NAME OF OFFCIAL	SIGNATURE
Chief Executive Officer	F	Unlimited	Sibusiso Makhanya	
Company Secretary	D3	500,000.00	Nokubonga Mahlaba	
Risk Manager	D3	500,000.00	Mimmy Zuma	
Internal Auditor		500,000.00	Vacant	

Capital Budget/ Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)	NAME OF OFFCIAL	SIGNATURE
Chief Executive Officer	F	Unlimited	Sibusiso Makhanya	
Company Secretary	D3	500,000.00	Nokubonga Mahlaba	
Risk Manager	D3	500,000.00	Mimmy Zuma	
Internal Auditor		500,000.00	Vacant	

DD34-DCM-440

MHLATHUZE

Organisational Delegation of Authority: Payments, Agreements and Contracts

A Level Signatories:

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)	NAME OF OFFCIAL	SIGNATURE
Chief Executive Officer	F	Unlimited	Sibusiso Makhanya	
Chief Operations Officer	E1	Unlimited	Simphiwe Xulu	
Chief Financial Officer	E1	Unlimited	Brian Ndaba	
GM: Corporate Services	E1	Unlimited	Mandla Myeni	

B Level Signatories:

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)	NAME OF OFFCIAL	SIGNATURE
GM: Scientific Services	D4	Unlimited	Swaswa Nthoro	
Snr Management Accountant	D3	Unlimited	Themba Mabasa	
Financial Accountant	D2	Unlimited	Kotie Kruger	
Cash Management Accountant	C4	Unlimited	Sanelisiwe Gumede	

- **Scientific Services**

Operational Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
GM: Scientific Services	D4	5 000 000.00
Environmental Manager	D3	100 000.00
Quality Officer	D1	100 000.00
Chemist	C5	50 000.00
Microbiologist	C5	50 000.00

Capital Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
GM: Scientific Services	D4	5 000 000.00
Environmental Manager	D3	100 000.00
Quality Officer	D1	100 000.00
Chemist	C5	50 000.00
Microbiologist	C5	50 000.00

DD34-DCM-441

- **Operations, Maintenance & Projects**

Operational Budget/Purchase of Goods and Materials within Approved Budgtes

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
Chief Operations Officer	E1	5 000 000.00
Maintenance Manager	D4	2000 000.00
Operations Manager	D3	2000 000.00
Program Manager	D4	2000 000.00
Planning & Development Manager	D3	500 000.00
Project Manager	D2	50 000.00
Project Manager	D2	50 000.00
Project Manager	D2	50 000.00
Process Technologist (Nsezi)	D1	50 000.00
Superintendent (Pumpstation)	C5	50 000.00
Superintendent (Nsezi)	C5	50 000.00
Maintenance Supervisor	C5	50 000.00
Supervisory Artisan (Nsezi)	C4	50 000.00
Superintendent (Nsezi)	C4	50 000.00
Superintendent (Weir)	C4	50 000.00

Capital Budget/Purchase of Goods and Materials within Approved Budgtes

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
Chief Operations Officer	E1	5 000 000.00
Maintenance Manager	D4	2 000 000.00
Operations Manager	D3	2 000 000.00
Program Manager	D4	2 000 000.00
Planning & Development Manager	D3	500 000.00
Project Manager	D2	50 000.00
Project Manager	D2	50 000.00
Project Manager	D2	50 000.00
Process Technologist (Nsezi)	D1	50 000.00
Superintendent (Pumpstation)	C5	50 000.00
Superintendent (Nsezi)	C5	50 000.00
Maintenance Supervisor	C5	50 000.00
Supervisory Artisan (Nsezi)	C4	50 000.00
Superintendent (Nsezi)	C4	50 000.00
Superintendent (Weir)	C4	50 000.00

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Capital Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
Chief Financial Officer	E1	Unlimited
Financial Controller	D3	500 000.00
Supply Chain Manager	D3	500 000.00
Snr Management Accountant	D3	500 000.00
Financial Accountant	D2	50 000.00
Management Accountant	D2	50 000.00
SCM Specialist	C5	50 000.00
Assets Accountant	C5	50 000.00
Buyer	C2	5000.00
Buyer	C2	5000.00
Buyer	C2	5000.00

- **Corporate Services**

Operational Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
General Manager Corporate Services	E1	5 000 000.00
IT Manager	D3	100 000.00
HR Manager	D3	100 000.00
PR Manager	D2	100 000.00
Training & Development Specialist	D1	50 000.00
Health & Safety Specialist	D1	50 000.00

Capital Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
General Manager Corporate Services	E1	5 000 000.00
IT Manager	D3	100 000.00
HR Manager	D3	100 000.00
PR Manager	D2	100 000.00
Training & Development Specialist	D1	50 000.00
Health & Safety Specialist	D1	50 000.00

DD34-DCM-443

Annexure C

MHLATHUZE

DELEGATED SIGNING AUTHORITY

- **Chief Executive**

Operational Budget/ Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
Chief Executive Officer	F	Unlimited
Company Secretary	D3	500 000.00
Risk Manager	D3	500 000.00
Internal Auditor		500 000.00

Capital Budget/ Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
Chief Executive Officer	F	Unlimited
Company Secretary	D3	500 000.00
Risk Manager	D3	500 000.00
Internal Auditor		500 000.00

- **Finance**

Operational Budget/Purchase of Goods and Materials within Aporoved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
Chief Financial Officer	E1	Unlimited
Financial Controller	D3	500 000.00
Supply Chain Manager	D3	500 000.00
Snr Management Accountant	D3	500 000.00
Financial Accountant	D2	50 000.00
Management Accountant	D2	50 000.00
SCM Specialist	C5	50 000.00
Assets Accountant	C5	50 000.00
Buyer	C2	5000.00
Buyer	C2	5000.00
Buyer	C2	5000.00

DD34-DCM-444

Annexure B

MHLATHUZE

CHANGE IN CONTROL FORM: AUTHORITY LIMITS

System User Details

First Name: _____ Initials: _____

Surname: _____ Title: _____

Employee Number: _____ Email Address: _____

Employees Job Title: _____ Management Level: _____

Department: _____ HOD: _____

Current Authority Limits: Capital Budget: _____

Operational Budget: _____

Acting Details

Acting Job Title: _____ Management Level: _____

Department: _____ HOD: _____

Acting Authority Limits: Capital Budget: _____

Operational Budget: _____

Start Date: _____ End Date: _____

.....

Approved By (HOD): _____ Date: _____

Signature: _____

Authorised By (CFO): _____ Date: _____

Signature: _____

Received and Implemented By (IT Manager): _____

Signature: _____ Date: _____

Annexure A

COMMODITIES THAT ARE CLASSIFIED AS RESTRICTED AND REQUIRE ADDITIONAL APPROVAL

The following types of commodity are considered 'restricted items' and require further approval as indicated below before any purchase can be committed:

General Manager Corporate Services	- Cameras Office equipment such as videos, hi-fi's Telephones Televisions (NB. require licence) Safety equipment and clothing
Relevant HOD	- Cellular Phones
Manager IT	- Computer Equipment Computer Software Photocopiers, scanners and faxes
Maintenance Manager/Chief Operations Officer/Operations Manager	- Electrical Equipment High Tension Equipment
Maintenance Manager/Chief Operations Officer/Operations Manager	Instruments
CEO	- Vehicles
Operations Manager/Chief Operations Officer	- Mobile Communication Units (Radios) Chemicals
General Manager Corporate Services /Maintenance Manager	Fire Equipment

20. REVIEW HISTORY

REVIEW HISTORY			Policy No. POL 010	Rev No. 04
REV NO.	DATE	PAGE No.	DETAILS	
03	27 May 2011	3	Bank signatory and value rules	
03	27 May 2011	4	Added 4.5 Internal authority of the CEO	
04	24 October 2013	All	Delegation of Authority Document	
05	18 May 2015	All	Delegation of Authority Document	

REVISION AND RECOMMENDATION			
POSITION	NAME	DATE	SIGN
Chief Financial Officer: (Custodian and Administrator)	Mr BS Ndaba		

COMMISSION OF INQUIRY INTO STATE CAPTURE

15. LITIGATION

15.1 Actions and applications by Mhlathuze Water, other than those in noted in 3.1 must be approved by the

CEO	≤ R1million
Board	> R1million

15.2 The defence of actions and applications against Mhlathuze Water, other than those noted in 3.1, are subject to the approval of the Chairperson of the Board or the CEO.

16. SUPPLY CHAIN MANAGEMENT POLICIES

Awarding of Tenders/ Bids for goods and services exceeding R500, 000 (VAT inclusive);
The Bid Adjudication Committee will recommend all tenders/bids to be awarded to the CEO to approve and appoint the bidder.

Reference to the Supply Chain Management Policy should be made for further delegations not included in this policy.

17. INSURANCE

The authority limits for insurance claims must be approved as follows:

Level of Management	Role	Authority Limits (R)
F	CEO	>5,0 million
E1	Head of Department	<5,0 million
D3	Manager	<2,0 million
C5-D3	Technologist/Engineers/Technicians	<500,000
D2/C5	Project Manager/Superintendents	<100 000
C5	Assets Accountant	<50,000

18. ACTING DELEGATIONS

The authority limits for all employees delegated to "Act" in a position senior to their current position must be amended/ increased on the IT System (i.e. Dynamic AX) to correspond with the senior employee's authority limits per Delegations Policy and DOA Signatory List.

The Change Control Form: Authority Limits (Annexure B) should be completed and authorised by the Chief Financial Officer (CFO).

19. MOVEMENT OF FUNDS

- Movement of funds between cost centre's requires the approval of the HOD.
- Movement of funds within the scheme in consultation with the CEO.
- Movement of funds between section 29 and 30 requires the approval of the Board.

11. STORES INVENTORY ADJUSTMENTS

All loss adjustments for Stores Inventory must be approved as follows:

Level of Management	Role	Authority Limits (R)
F	CEO	>5 million
E1	Chief Financial Officer	<5 million

12. DISPOSAL OF ROTABLE/REPAIRABLE ASSETS THAT ARE TO BE REPLENISHED

The authority limits for the disposal of rotable/repairable assets that are to be replenished are:

Level of Management	Role	Authority Limits (R)
F	CEO	<1 million
E1	Chief Financial Officer	<500,000

An instruction for disposal of all rotable/repairable assets must be sent to the Supply Chain Management so that replenishment can be initiated. The SCM Manager must submit a monthly report to the Chief Financial Officer on the net impact on the inventory balance on rotables/repairables replenished.

13. HUMAN RESOURCES

13.1 The following matters require Board approval:

- Appointment of the CEO;
- Appointment of Heads of Departments (after recommendation by the CEO);
- General budget salary increases;
- Executive Management salary adjustments (after recommendation by the Board Committee responsible for remuneration);
- Approval of the Mhlathuze Water's organogram and the establishment and disestablishment of positions.

13.2 Appointments of other positions within the approved budget are motivated by each Head of Department.

13.3 Salary adjustments of all other staff (excluding Exco) are approved by the CEO.

13.4 Change of Job titles and Job grading (excluding Exco) are approved by the CEO

14. AUTHORISATON OF TRAVEL AND APPROVAL OF TRAVEL CLAIMS

Authorisation of travel for, and travel expenditure claims of -

- all employees other than the CEO and Heads of Departments' shall be approved by the Head of Department together with GM: Corporate Services
- Heads of Departments' shall be approved by the CEO;
- The CEO and Board members shall be approved by the Chairperson of the Board;
- The Chairperson of the Board shall be approved by delegated authority (DWS).

6. **SALE OF SCRAP**

The authority limits for scrap sales (other than sales in terms of approved contracts) are:

Role	Authority Limits (R)
CEO	>1 million
Chief Financial Officer	<1 million

7. **PURCHASE ORDERS**

7.1 **General**

The signing of orders is in connection of approval limits as per Annexure C.

7.2 **Purchase Order Variation**

The authority limits on variations to purchase orders for operating and capital expenditure are:

Level of Management	Role	Authority Limits (R)
F	CEO	>1 million
E1	Heads of Departments	<1 million

7.3 **Contract Variation Interactions (CVI)**

A site instruction issued by a clerk of works or superintendent/engineer is required for any order variation together with a CVI, the number of which is to be referenced in the order, amendment. The CVI's should be compiled and authorised as per paragraph 7.2 prior to the work commencing.

8. **DISPOSAL OF ASSETS**

The limits authority for disposal of assets must be approved as follows:

Level of Management	Role	Authority Limits (R)
	Board	7 million and above
F	CEO	Between 1 and 7 million
E1	Chief Financial Officer	<1 million

In addition, the disposal of fixed plant assets requires the approval of the Chief Operations Officer ,Operations Manager and Maintenance Manager. The disposal of mobile equipment assets requires the approval of the relevant Managers.

9. **DONATIONS**

All donations of company assets are required to be approved by the Executive Committee (EXCO), which is chaired by the CEO. All donations of such assets to a single beneficiary exceeding R20 000 are to be approved by the Board.

10. **RESTRICTED APPROVAL**

Certain commodities that are designated as "restricted items" require the additional approval of the officials listed in Annexure "A".

4.2 The internal authority of the CEO for emergency break-downs, outside budget is not limited. However the CEO will inform the Board at the first meeting after such an incident of the estimated costs and effect on services and how such costs will be recovered.

4.3 Where authority levels are delegated to employees below supervisor level this delegation of authority must be approved by the Head of Department Level.

4.4 The internal authority of the CEO for emergency cases, outside budget is not limited. However the CEO will ratify the Board at the first meeting after such an incident of the estimated costs, the effect on services or the environment and how such costs will be recovered.

4.5 The authority limits for credit notes and adjustments to customers are:

Role	Authority Limits (R)
CEO	<5,0 million
Chief Financial Officer	<500,000

All credit notes are required to be authorised by a Panel "A" signatory.

5. **CAPITAL EXPENDITURE (Refer to "DOA Signatory List")**

5.1 The Board has delegated the following authority limits for capital expenditure to the CEO:

	Authority Limits (R)
• Accumulated capital expenditure not in approved budget	< 1 million

5.2 [redacted]

5.3 The authority limits for the purchase of goods and materials within an approved capital expenditure vote are as follows:

Level of Management	Role	Authority Limits (R)
F	CEO	Unlimited
E1	Head of Department	<5,0 million
D3	Manager	<2,0 million
C5-D3	Technologist//Engineers	<500,000
D2/C5	Project Managers/Superintendents	<100,000
D2	Project Manager	<50,000

3.3 **Banking Signatories**

The following approval is required for:

- Agreements & contracts (including letters of intent) other than those noted in 3.1
- Payments (e.g. cheques, EFT, manual payments, guarantees)

- **Value rule for ABSA Business Integrator "A+A" or "A+B"**

A Level Signatories	Limits	B Level Signatories	Limits
Chief Executive Officer	Unlimited	General Manager Scientific Services	Unlimited
Chief Operations Officer	Unlimited	SnrManagement Accountant	Unlimited
Chief Financial Officer	Unlimited	Financial Accountant	Unlimited
General Manager Corporate Services	Unlimited	Cash Management Accountant	Unlimited

3.4 **Contracts**

Written contracts are mandatory for the following:

- Orders for goods and services which have a duration exceeding twelve months;
- Orders for construction, manufacture, goods and or services exceeding one million rand (R1 million), excluding VAT, except for once off purchases of capital goods (e.g. mobile equipment, machinery).

All agreements and contracts, (and any changes or variations to such agreements) other than approved purchase orders, must be routed to the Chief Executive Officer/ Company Secretary to ensure that they are correctly authorised and that the originals are filed as valuable documents.

4. **OPERATING COSTS (Refer to "DOA Signatory List")**

4.1 The internal authority limits for expenditures within approved operating cost budgets are:

Level of Management	Role	Authority Limits (R)
F	CEO	>Unlimited
E1	Head of Department	<5,0 million
D3	Manager	<2,0 million
C5-D3	Technologist//Engineers	<500,000
D2/C5	Project Managers/Superintendents	<100,000
D3/D2	Cost Centre Owners	<50,000

Note: The above limits do not override the annexure, "Delegation of Authority Signatory List" for this policy.

1. PURPOSE

This Delegations Policy is established to define the limits of authority designated to specified positions of responsibility within Mhlathuze Water. The policy shall determine the types and maximum amounts, of the organisation obligations that may be approved by executives.

2. ROLES AND RESPONSIBILITIES

In terms of section 37, of the Water Services Act, No. 108 of 1997; a Water Board may delegate any operational powers to a Committee of the Board, its Chief Executive Officer and/or any of its employees.

The general powers and authority levels are approved by resolution of the Board. The Chief Executive Officer ("CEO") is authorised to delegate internal authority limits within these levels. The primary roles and responsibilities in relation to delegation of authority rest with the:

- Committee of the Board;
- Chief Executive Officer; and
- Staff with delegations.

The Chief Financial Officer ("CFO") is responsible for ensuring compliance with this policy.

3. BOARD RESOLUTION

3.1 The following contracts/actions require Board approval:

- Any acquisition of services which will result in service/business contracts of more than twelve months duration accounting for more than 2.5% of annual revenue or a value of R5 million and above; that is not part of the approved budget.
- Any acquisition of goods which will result in purchase contracts of more than twelve months duration accounting for more than 2.5% of annual expenditure costs; that is not part of the approved budget.
- Major litigation proceedings for damages in excess of R1 million;
- Other material contracts (e.g. related parties);
- Long term funding arrangements;
- Appointment of External and Internal Auditors;
- Investments in institutions other than Board approved institutions;
- Approval of the Tariff policy;
- New Projects and related tariffs for new customers (after recommendation by EXCO),
- Major capital projects and the budgets thereof; that is not part of the approved budget.
- Annual tariff increases; and
- Unresolved objections to tariffs from consumers.

3.2 The authority levels approved by the Board on 18 May 2015 are in Rand terms.

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MHLATHUZE

DOCUMENT TITLE

DELEGATIONS POLICY

POLICY

The purpose of this Policy is to adopt a new set of delegations of authority within Mhlathuze Water.

BRIEF DESCRIPTION OF CHANGE

Amendments to Matters requiring Board Approval

APPROVAL

Approved by the full Board at its meeting of 20 May 2015

DC MYENI
CHAIRPERSON

DATE: 20/05/2015

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE

WATER • AMANZI

REPORT ON THE INVESTIGATION INTO NSEZI BALANCING RESERVOIR PROJECT CONTRACTOR: SSO JOINT VENTURE RE: R2 200 000.00 AND R1 923 489.92 IRREGULAR EXPENDITURE

ANNEXURE U

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

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T (031) 305 7537 F (031) 305 7538
admin@mhlanginc.co.za

COMMISSION OF INQUIRY INTO STATE CAPTURE

Detailed Information (continued)

Directorship 6 of 6

Company Name	TWO STARS LIQUOR WHOLESALE AND RESTAURANT
Company Registration Number	2006/027446/23
Appointment Date	01/03/2005
Designation	-
Details Withdrawn From Public	-
RSA Resident	-
Director Type	MEMBER
Country	-
Company Status	AR FINAL DEREGISTRATION
Register Number	-
Status Date	-
Executor Name	-
Trustee Name	-
Executor Appointment Date	-
Date Form Received	-
Date Form Lodged (CM29_DATE)	-
Member's Percentage (Size)	50
Founding Statement Date (CK1_2_DATE)	-
Contribution Type	-
Member's Contribution	500
Occupation	-
EXCL_CON	0
Nature of Change	-
Fine Expiry Date	-
Profession	-
Nationality Code	-
Estate	-
Resignation Date	30/12/1899
Registered Address	-
Residential Address	NUMBER 14 DONGO DOMAIN, BIRDSWOOD, RICHARDS BAY, 3900
Business Address	NUMBER 14 DRONGO DOMAIN, BIRDSWOOD, RICHARDS BAY, 3900
Postal Address	P O BOX 9553, RICHARDS BAY, 3900

Report Information

Date of Information	17/03/2017
Print Date	17/03/2017
Generated By	LONDIWE-MHLANGA
Reference	LONDIWE
Report Type	CIPC-DIRECTOR

To view this report on your mobile device simply scan the QR Barcode using your Barcode Reader app.

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COMMISSION OF INQUIRY INTO STATE CAPTURE

Detailed Information (continued)

Directorship 5 of 6

Company Name	MBUSOWAMAZWAKWE TRADING
Company Registration Number	2009/227163/23
Appointment Date	14/12/2009
Designation	
Details Withdrawn From Public	NO
RSA Resident	
Director Type	MEMBER
Country	SOUTH AFRICA
Company Status	AR FINAL DEREGISTRATION
Register Number	
Status Date	
Executor Name	
Trustee Name	
Executor Appointment Date	
Date Form Received	14/12/2009
Date Form Lodged (CM29_DATE)	
Member's Percentage (Size)	100
Founding Statement Date (CK1_2_DATE)	
tribution Type	
Member's Contribution	10
Occupation	
EXCL_CON	
Nature of Change	
Fine Expiry Date	
Profession	
Nationality Code	
Estate	
Resignation Date	17/03/2017
Registered Address	
Residential Address	8 OXRY DRIVE, EMPANGENI, 3880
Business Address	8 OXRY DRIVE, EMPANGENI, 3880
Postal Address	P O BOX 9553, RICHARDS BAY, 3900

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER

DOCUMENT TITLE
ACCOUNTS PAYABLE POLICY AND PROCEDURE

PURPOSE
The Purpose of this policy and procedure is to ensure that Mhlathuze Water Accounts Payable section provides the best service possible and to ensure effective accountability over the acquiring and recording of the payment for goods and services.

BRIEF DESCRIPTION OF CHANGE
New policy

APPROVAL SIGNATURE RECORD

Approved by the full EXCO at its meeting on 17 December 2013.

SIBUSISO MAKHANYA

CHAIRPERSON OF EXCO

DATE: 10/02/14

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MHLATHUZE

Delegation of Authority: FINANCE: List of Signatories

Operational Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)	NAME OF OFFCIAL	SIGNATURE
Chief Financial Officer	E1	5,000,000.00	Brian Ndaba	
Snr Management Accountant	D3	500,000.00	Themba Mabasa	
Financial Controller	D3	500,000.00	Vacant	
Supply Chain Manager	D3	500,000.00	Zakithi Magubane	
Financial Accountant	D2	50,000.00	Kotie Kruger	
Management Accountant	D2	50,000.00	Marinus Brink	
SCM Specialist	C5	50,000.00	Ntombi Luthuli	
Assets Accountant	C5	50,000.00	Joy Mngomezulu	
Buyer	C2	5,000.00	Ray Antony	
Buyer	C2	5,000.00	Andile Nyide	
Buyer	C2	5,000.00	Yenzi Madida	
Buyer	C2	5,000.00	Nhlakanipho Mkhize	

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE

Delegation of Authority: FINANCE: List of Signatories

Capital Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)	NAME OF OFFCIAL	SIGNATURE
Chief Financial Officer	E1	5,000,000.00	Brian Ndaba	
Financial Controller	D3	500,000.00	Vacant	
Snr Management Accountant	D3	500,000.00	Themba Mabasa	
Supply Chain Manager	D3	500,000.00	Zakithi Magubane	
Financial Accountant	D2	50,000.00	Kotie Kruger	
Management Accountant	D2	50,000.00	Marinus Brink	
SCM Specialist	C5	50,000.00	Ntombi Luthuli	
Assets Accountant	C5	50,000.00	Joy Mngomezulu	
Buyer	C2	5,000.00	Ray Antony	
Buyer	C2	5,000.00	Andile Nyide	
Buyer	C2	5,000.00	Yenzi Madida	
Buyer	C2	5,000.00	Nhlakanipho Mkhize	

COMMISSION FOR STATE CAPTURE

1. PURPOSE

To ensure the effective accountability over the acquiring and recording of payment for goods and services.

2. SCOPE

The scope is inclusive of the acquiring, payment and recording of goods and services.

3. APPLICABLE LEGISLATION & REGULATIONS

- Public Finance Management Act (PFMA).
- South African Revenue Services (SARS): Income Tax Act, 1962, including the Value Added Taxation Act (VAT Act).
- Corruption Act 94 of 1994.
- Treasury Regulations for departments, constitutional institutions and public Entities issued in March 2005 in terms of the PFMA.

4. AUTHORITY & RESPONSIBILITY

Authority – Board.
Responsibility – Chief Financial Officer and the Chief Executive

5. DEFINITIONS AND ACRONYMS

- "DOA" refers to the delegation of authority document.
- "SCM" refers to Supply Chain Management.
- "SMME" refers to a small, medium and micro enterprise.
- "BI" refers to Business Integrated System interfaced with the electronic banking system of Mhlathuze Water.
- "ERP" refers to Enterprise Resource Planning (Enterprise resource planning is business process management software that allows an organization to use a system of integrated applications to manage the business and automate back

office functions. ERP software integrates all facets of an operation, including product planning, development, manufacturing processes, sales and marketing.

- "Netup refers to the software that Mhlathuze Water uses to verify the banking details if they are correct and belong to the company/individuals that submitted the information, the system lower the risk of loading incorrect or fraudulent banking details into the banking system.

6. POLICY FRAMEWORK

6.1. Acquisition of goods and services

This will be performed in line with the Supply Chain Management policy. Only goods and services which are required by Mhlathuze Water may be acquired.

6.2 Receipt of Stock and non-stock items

This will be performed in line with the Inventory and GRN processes of Mhlathuze Water – Refer to Inventory Procedure.

6.3 Payment Processing

Payment processing involves the following elements:

Proper supporting documentation

a) Proper invoice

b) Proper obligating document (purchase order or contract/lease) or any other relevant supporting documentation.

Completeness of payment

a) Authorised expenditure

b) Goods or services received

c) Delivery of goods or service in accordance with terms of agreement and delivery note

d) Authorised approval for payment

e) Payment in accordance with terms of agreement

f) Payment not a duplicate

g) Vendor name and address is accurate
h) Quantities is accurate
i) Unit prices and amounts are correct
j) Payment amount is the same as requested on obligation

Legitimacy of Payment

Appropriate accounts/projects cited and authorised for payment
Obligation/encumbrance incurred during time of appropriation

Accounts Payable department will have to ensure these elements are met prior to any payment.

6.4. Routing of Documents

Each department is responsible for overseeing the proper routing of documents to Accounts Payable.

6.5. Payment

Types of Payment include:

- EFT Payments
- Once off EFT payments
- Cession Payments and
- Cheque/Cash Payments including petty cash
- Payment of goods and services through cheque or Once off EFT will only relate to the following:
  - HR payments that are not legislated to the payroll
  - Staff Awards
  - Funeral or death related payments
  - Sundry payments and Urgent payments that fall outside the SCM process.

All payments will have to be undertaken in line with the DOA and release of payments will be performed by two signatories.

6.6. Payment Terms

Payment terms for suppliers will be 30 days from date of statement except for the following:

Suppliers classified as SMME's as these will be paid 14 days/or as per agreed upon from date of invoice and cash payments where payment will be made on presentation of authorised invoice and according to terms of the agreement.

6.7. Payment Cycles

Three payments run each week, payments will be made on Mondays, Wednesdays and Fridays.

For special payment requests, a request must be made through the Chief Financial Officer to approve such a request.

6.8. Reconciliations

Monthly reconciliation's, reconciling the creditors statements to the creditors ledger must be prepared.

A consolidated reconciliation of all creditors' balances to the financial system must be prepared at month end.

6.9. Recording of transactions and the liability

Will be performed in line with the International Financial Reporting standards.

6.10. Credit cards

Refer to Mhlathuze Water credit card policy.

7. RECORDS

Refer to Accounts Payable Procedure

8. CROSS-REFERENCE TO OTHER POLICIES/PROCEDURES

- Supply Chain Management Policy and Procedure
- Inventory Procedure
- Accountants Payable (Creditors) Procedure

COMMISSION OF INQUIRY INTO STATE CAPTURE

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ACCOUNTS PAYABLE (CREDITORS) PROCEDURE

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1. PURPOSE

To document the Procedure for the Accounts Payable Department to equip the department to provide the best service possible to Mhlathuze Water customers and all relevant stakeholders and to ensure effective accountability over the acquiring and recording for goods and services and prompt and effective processing of invoices and payment requests.

2. SCOPE

The acquisition of goods and services on credit which gives rise to a liability to the organisation.

The importance of the correct processes, procedures, treatment and recognition of this liability is critical for Mhlathuze Water, as it has to be in accordance with the statements of International financial reporting standards (IFRS).

IFRS requires that a liability must only be recognised when it is probable that an outflow of resources embodying economic benefits will result from the settlement of a present obligation and the amount at which the settlement will take place can be measured reliably.

3. APPLICABLE LEGISLATION & REGULATIONS

In term of section 51, General responsibilities of accounting authorities, of the Public Finance Management Act (PFMA), an accounting authority for a public entity:
S51 (b) (ii), must take effective and appropriate steps to:

- Prevent irregular expenditure, fruitless and wasteful expenditure, losses resulting from criminal conduct, and expenditure not complying with operational policies o the public entity.

S51 (c), refers to the responsibilities of management, including the safeguarding, of the assets and for the management of the revenue, expenditure and liabilities of the public entity.

- South African Revenue Services (SARS): Income Tax Act, 1962, including the Value Added Taxation Act (VAT Act).
- Corruption Act 94 of 1994.
- Access to Information Act 2, No 2000
- Bank Act, 1990
- National Credit Act, 34 of 2005
- Treasury Regulations

4. AUTHORITY & RESPONSIBILITY

Authority – Board.

Responsibility – Chief Financial Officer and the Chief Executive.

5. DEFINITIONS AND ACRONYMS

"Requisition" refers to the document used to convey to the buying department that goods are required by the organisation

"Supplier delivery note" refers to the document made out by the supplier and details the goods which are being delivered

"Goods received note" (GRN) refers to the document completed by Mhlathuze Water when the goods are delivered

"Invoice" refers to the document sent by the supplier to the purchaser reflecting the purchase of the goods by the purchaser

"Goods returned Voucher" refers to the document, which is sent to the supplier reflecting damaged or unsatisfactory goods, incorrect quantities delivered, invalid charged, etc. for which a reversal of an amount charged is required

"Credit Note" refers to the document issued by the supplier reflecting the credit amounts for goods returned, goods damaged in transit, unsatisfactory goods, incorrect quantity delivered and incorrect /invalid charge/s

"Creditors Statement" refers to the document issued by the supplier summarising the transactions that took place between the supplier and purchaser during a month

"DOA" refers to the delegation of authority document approved by the Board of Mhlathuze Water

"Disbursement payment" refers to payments made via the cash disbursement process – cheque payments or petty cash payments

"Payables and Accruals Administrator" refers to the employee supervising the accounts payable department

"Accounts Administrator" refers to the employee that manages/processes the accounts payable to the supplier

"Urgent payments" refers to payments that would have legal implications due to Mhlathuze Water not making payments as contractually agreed. A motivation will be submitted to the Chief Financial Officer or Financial Controller to approve the payment outside of scheduled weekly payments.

6. CONTACT INFORMATION

Questions and Comments

If you have questions dealing with Accounts Payable issues, please contact one of the individuals listed below, either by phone or e-mail.

Payables and Accruals Administrator, Extension 1043.

Accounts Administrators: Extentions 1112 and 1042.

Related policies and documents are saved under SharePoint.

7. ACCQUISITION OF GOODS AND SERVICES

The acquisition of goods and services for Mhlathuze Waters' business needs are done through:

a) The Supply Chain Management Process (The procuring of goods and services from service providers/suppliers/contractors registered on Mhlathuze Water vendor master file in line with the PFMA) for which a purchase requisition is required or

b) The General Disbursement's Process applies only to utility bills and goods and services that relate to the following for which a cheque or once off EFT requisition is required:

- HR payments that are not legislated to the payroll
- Staff Awards
- Funeral or death related payments
- Sundry or Urgent payments that fall outside the SCM process

8. SUPPLY CHAIN MANAGEMENT PROCESS REQUISITION AND AUTHORISATION

Refer to the Procurement Supply Chain Management Policy – Acquisition Procedure.

9. ORDERING

Refer to the Procurement Supply Chain Management Policy – Acquisition Procedure.

10. RECEIVING:

Refer to the Supply Chain Management Policy - Inventory Procedure.

11. RECORDING TRANSACTIONS

Upon receipt of the invoice at the creditors department, the Creditors Administrator must call up the purchase order and then the GRN on the ERP system to verify the order and to confirm receipt of goods (order has been GRN'D) prior to processing of invoice.

The accounts administrator must inspect the electronic goods received note (GRN) for the following:

a) The quantity and description agree to the invoice.

b) The order number must be quoted on the invoice.

c) The invoice or a signed delivery note which is attached to the invoice has been authorised in line with the DOA.

d) Identify if any goods were returned to the supplier by noting/checking for comments on the delivery note or invoice indicating goods were returned or by the attached Goods Returned Voucher.

If any goods were returned to the supplier, perform the following:

- A Goods Returned for Credit document must be completed in line with the SCM policy and a copy will be sent to the creditors department.
- The accounts administrator must ensure that a Credit Note is received from the supplier and that this is correctly documented and the transaction is recorded against the creditor.
- Invoices received for services provided must be forwarded to the initiator of the order to be authorised for payment.

- Identify any miscellaneous items for example; journals processed by the supplier, etc.

- The Payables and Accruals Administrator must review these reconciliations to the payments listing (creditors ledger) on a monthly basis and sign the reconciliation statement as evidence of review.

- The Financial Accountant must review a sample of the creditor's reconciliation on a monthly basis including agreeing to the remittance advice and payments listing and sign as evidence of review on the reconciliation.

- The Payables and Accruals Administrator must reconcile the creditor's ledger (age analysis) to the creditors control account at every month end. This reconciliation must be reviewed by the Financial Accountant.

- The Payables and Accruals Administrator must produce a report of all GRNS older than 120 days. The Payables and Accruals Administrator must review, investigate and approve the reversal of aged GRNS for items older than 120 days. The Financial Accountant must sign off the report of reversals to be processed by the Accounts Administrators after review of support documents. These must be processed by the 3rd working day after month end.

Unlinked Invoices

- Unlinked invoices are (Invoices not linked to orders. These are limited to invoices that would have no fixed way of determining the cost example Eskom, MTN, Rennies, Avis and Telkom as usage determines costs and usage for any given period is uncertain).

- Unlinked invoices must be approved in line with the DOA.

- These invoices must be processed by the Accounts Administrators.

- The invoice must then be GRN'D by the goods receiving clerk.

- Perform calculations on invoice.

- If the invoice value is greater than the order value, the ERP system limit for the overriding entry of an invoice is, to the maximum of R10. Invoices which exceed these limits are required to be taken back to the originator of the order to investigate and to institute either a credit note or a price amendment of the order, to enable the invoices to be paid.

12. RECONCILIATIONS

The creditor's reconciliations must be prepared on monthly basis or prior to any payment being made to a supplier. Reconciliations shall reconcile the creditor's statements to the creditor's ledger. Accounts Administrators must ensure that statements are received from suppliers. Where creditor's statements are not produced by emerging suppliers or suppliers that do not have the traditional accounting systems which allows for the creation of a monthly statement of account, the Accounts Administrator must reconcile all outstanding invoices for the respective supplier to the creditor's ledger.

The following procedures must be performed in preparing the reconciliations:

- Identify payments made and discounts claimed but not reflected on the supplier statement.

- Identify invoices reflected on the statement but not processed in the creditor's ledger.

- Identify credit notes not processed by supplier or passed by supplier and not yet received.

13.2 HR Payments/Staff awards that are not legislated to the payroll

- Applicable documentation appropriately approved and signed by the Human Resources Department.
- Authorised by delegated signatories as per Delegation of Authority.
- Relevant supporting documents.

13.3 Funeral or Death related payments

- Applicable documentation appropriately approved and signed by the Human Resources Department.
- Authorised by delegated signatories as per Delegation of Authority.
- Relevant supporting documents.

13.4 Recording of transactions

Upon receipt of the invoice or other relevant documents at the creditors department, the Payables and Accruals Administrator check that the invoice relates to Mhlathuze Water, that it is authorised in line with the DOA and is accompanied by the relevant cheque requisition prior to processing of invoice.

If there is no cheque requisition, the invoice is then re-directed to the relevant line manager for a cheque requisition to be submitted.

Exceptions to the cheque requisition requirement will apply only to the following:

- Utility bills: were an invoice for services for Mhlathuze Water's business needs will have to be provided, and authorised in line with DOA,

- Assisted Education: where a schedule will be provided to the creditors department of all institutions to be paid and on behalf of which

- Unlinked invoices must be reviewed by the Payables and Accruals Administrator before payment is made to the supplier. Adjustments to creditor's accounts due to processing errors in the creditors department must be approved by the Financial Controller.

Payment Certificates

- Payment certificates are an internal control document for progress payments.
- The approval on this document which lists the invoice number and amount to be paid will serve as approval to make payment of the invoice, if all other necessary documents are attached.
- Changes made to the certificate for correcting errors will have to be sign in line with the DOA with the designated approver signing that change.
- The use of this document is not restricted to projects but is to be used for all progress payments as an indication and control of the payments made against the order being progressively paid as per the agreed milestones.

13. GENERAL DISBURSEMENT PROCESS REQUISITION AND AUTHORISATION

13.1. Cheque Requisition Authorisation

a) Cheque requisitions will be signed by two designated employees based on the structure in a department. Signatories must be the approval in line with the Mhlathuze Water DOA.

b) The procuring of goods or services may only be performed in the correc process outlined in the SCM policy hence the use of cheque requisitions wi not be for the purpose of bypassing the SCM acquisition process.

- The Payables and Accruals Administrator must review each payment recorded on the Payment Control Group Report against the relevant supporting documentation that is the order form, goods received note, delivery note and invoice, for evidence of authorisation and accuracy. The invoice and reconciliation must be signed as evidence of review.

- The ERP payment listing is created after all documents are reviewed and accepted as correct for payment by the Payables and Accruals Administrator.

- The ERP payment listing is imported to the Business Integrated (BI) Banking System by the Treasury Administrator. A comprehensive report is then printed from the BI system.

- Before payment can be released, the comprehensive report must be checked by the Payables and accruals administrator/or financial Accountant to verify that the correct supplier is being paid.

- The Payables and Accruals administrator must also cross-reference this comprehensive report to the Control Group Report and supporting documents that have been presented for payment. This check must be evidenced by signature.

- Payment must be released by two signatories who are an "A and B" signatory or "A and A" approved as per the delegation of authority.

- The remittance advice can then be generated for each payment. Accounts Administrators must post the remittance advice to the relevant supplier.

15.2. Manual and Cash on Delivery Payments (COD/Advance)

Manual Payments

The Accounts Administrators must generate cheque payments for:

respective employee, and this will be authorised in line with the DOA as would have been performed for a cheque requisition.

14. PETTY CASH

14.1 Refer to Mhlathuze Water Petty Cash Policy saved on the Intranet.

14.2 Application for Petty Cash (float)

- Treasury Administrator submits the application to replenish the Petty Cash float to the Assistant Accountant, who will review and sign off that the required amount is needed.
- The application is addressed to the Financial Accountant for the required amount.
- Application form to be forwarded to the Creditors Department for processing of the cheque by the Accounts Administrator.
- Cash cheque drawn in favour of custodian and posted to Petty Cash Control account on the ERP system, by the Accounts Administrator (independent of the person processing the cheque).
- A written application must be submitted to EXCO for an increase of the Petty Cash float.

15. PAYMENT PROCEDURES

15.1 EFT Payments (Electronic Funds Transfer)

- A monthly Payment Control Group Report must be run from the ERP system by the Creditor Administrators.

- The report contains the name of the supplier, invoice numbers captured against the supplier, bank account and the amount to be paid.

have failed to provide necessary documents for loading as a vendor on the database.

- Proof of banking details shall be provided for the loading of the payment.
- The Accounts Administrators must check that all the relevant documents, invoices, orders, delivery notes, statements and reconciliations are correct before a payment grouping is done and the status for payment is selected correctly on the ERP system.
- All payments are loaded onto the Business Integrated (BI) System by the Treasury Administrator.
- All payments are then presented to two authorised signatories together with all the supporting documentation, which they review for validity and accuracy.
- All payments must be signed and released by two signatories who are an "A and B" or "A and A" signatory approved as per the delegation of authority.
- The remittance advice can then be generated for each payment. Accounts Administrators must post the remittance advice to the relevant supplier.

15.4 Cession Payments

- The Company Secretary should be presented with the request from the supplier to initiate a cession payment.
- This information should be presented in the form of a legal signed cession document or an instruction to pay document.
- This document must include the following details relating to this payment – the name of the 3rd party to be paid, the invoice numbers to be paid and the total inclusive of VAT for the invoices to be paid.
- The Legal department must vet all legal implications for Mhlathuze Water. The information must be passed on to the Chief Financial Officer, the Chief Executive Officer and the Supply Chain Manager.
- The Chief Financial Officer must approve the request for the cession payment and inform creditors that the cession payment will be enforced.

- Suppliers that do not have bank accounts loaded on Mhlathuze's BI (Banking) system.

- Payment that is urgent or for which the supplier offers a settlement discount for early payment.
- Petty Cash
- Funeral Cheques
- Staff recreation

Cash on Delivery (COD/Advance) Payments

The Accounts Administrators must generate payments when there is a:

- Approved requisition and order
- Valid quotation approved by the relevant Head of Department
- Approved memo from the Head of Department and to be submitted to the Chief Financial Officer or the Financial Controller for approval and then submitted to the Accounts Administrators.

15.3 Once off Payments

- It is of a once off nature.
- An employee's refund that cannot go through payroll and that cannot be loaded as a vendor on our supplier's database.
- Debtors that have over paid their accounts and needs to be refunded.
- Supplier that have rendered services but cannot provide required documents to be captured our SCM database.
- Interview Candidates Refunds for travelling costs.
- Foreign payments that needs to go through the Bank.

Procedure

- A request in a form of Memo needs to be submitted to the relevant head of department for recommendations and approved by the Chief Financial Officer.
- Once off suppliers requests to pay must be signed off by the Supply Chain Manager/ Chief Financial Officer with proof that the supplier

- All returned paid cheques must be sent to the Treasury Administrator office where it must be filed in numerical sequence.

- All rejected electronic payments are made in the next payment run after the banking details have been updated on BI and the ERP system.

17. CREDIT CARD PROCEDURES

Refer to Mhlathuze Waters Credit Card Policy

18. MASTERFILE AMENDMENTS

18.1 The Accruals and Payable administrator and the Financial Accountant maintain the master file with changes on the banking accounts on the ERP Accounts payable system.

18.2 The Treasury Administrator maintains the master file on the banking system (BI) to reflect the correct banking details. This is done by entering the account details into the banking system and getting a report from the bank verifying the status of the account. This is processed into the banking system by the Treasury Administrator when positive verification is obtained from BI and Netup system.

The approved ABSA BI Administrators must approve all Bank master file changes after review of necessary support documents.

- The supplier requesting the cession payment must provide Mhlathuze Water with the original invoices, the relevant banking details as per Mhlathuze Water policy for supplier to be accepted onto the Mhlathuze Water supplier database and the statement from the 3rd party relating to this payment.
- The Accounts Administrator will process this cession payment in the same manner that all other creditors' payments are processed (as listed above).

15.5 The process of filing all documentation

- Check and verify that all documentation have valid signatures.
- The supporting documentation is filed in the creditors department in date sequence and once the cheque is processed by the Bank, it is sent via the bank statement and it must be filed in the Treasury Administrators office in cheque numerical sequence.
- The cheque is either deposited into the supplier bank account and the deposit slip is filed together with the supporting documents or the supplier/requestor collects the cheque and identifies themselves and signs the remittance advice and cheque register as proof of receipt.

16. RECORDING OF PAYMENT

- ERP postings of the BI (Banking) payments are done after the payment is done.
- A monthly bank reconciliation, reconciling the bank account as per the general ledger to the bank statement, must be performed by an independent person in the finance accounting department. (Currently the Payables and Accruals Administrator is doing this function)
- The bank reconciliation must be reviewed by the Financial Accountant on a monthly basis and signed as evidence of such review.

Record Name	Responsibility	Location	Archive Period On-site	Archive Perioc Off-site
Cheque supporting documents PV-Payment Vouchers (Filed in cheque sequence including ERP system printout)	Creditors Administrators	Creditors	2 years	5 years
Memos S&T-Service Providers (Filed in cheque sequence on applicable date and month of printed cheque with relevant supporting documents)	Creditors Administrators	Creditors	2 years	5 years

20. RESPONSIBILITIES

POSITION TITLE	TASK DESCRIPTION
EXCO	Approve the policy
Manco	Recommend amendments to the policy
Chief Financial Officer	Custodian and Administrator of the policy
Departmental Managers	Ensure adherence of their personnel to the Principles of this policy
Employees	Comply with the principles of this policy

19. KEEPING OF RECORDS AND ARCHIVING

Record Name	Responsibility	Location	Archive Period On-site	Archive Period Off-site
Supplier invoices and delivery notes	Creditors Administrators	Creditors	2 years	5 years
Supplier credit notes	Creditors Administrators	Creditors	2 years	5 years
Goods returned vouchers	Creditors Administrators	Creditors	2 years	5 years
Supplier statements	Creditors Administrators	Creditors	2 years	5 years
Payment control group report	Account Payable supervisor	Creditors	2 years	5 years
Creditors reconciliation	Account Payable supervisor	Creditors	2 years	5 years
Remittance advice	Creditors Administrators	Creditors	2 years	5 years
BI comprehensive report	Creditors Administrators	Creditors	2 years	5 years
Cheque Requisitions (Filed in cheque sequence on applicable date and month of printed cheque)	Creditors Administrators	Creditors	2 years	5 years
Cheque Requisition supporting documentation (Remittance, Requisition, Invoice and or any relevant document relating to payment)	Creditors Administrators	Creditors	2 years	5 years


COMMISSION OF INQUIRY
INTO STATE CAPTURE

HATCH GOBA
Member of the Hatch Group

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Umhlanga, 4319, South Africa
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Hatch Goba (Pty) Ltd.
Reg. No. 1995/007273/07

23 February 2016

Miss Andile Ngwane
Mhlathuze Water
Cnr of South Central Arterial and Battery Bank
Alton
Richards Bay
3900

Dear Madam,

Nsezi WTW and Associated Bulk Infrastructure - Construction of a 20 ML Reservoir

Contract No. MW/15/2014 - Payment Certificate No. 13

Attached for your further attention, please find Payment Certificate No. 13 on the above-mentioned Contract, together with the Contractor's VAT invoice amount certified as payable.

The Certificate covers work completed up to 23 February 2016.

Yours faithfully

K Slater Pr Eng

KS :sr
Ref.: H346307-0000-91-218-0013.docx
Attachment(s)/Enclosure: Payment Certificate No. 13
cc: SSO JV, Mr John Woodburn

Directors: T.T. Goba (Chairman), *J.G. Bianchini (Vice-Chairman), R.H. Aslett, A.G. Aurai, V. Beepath, H.J. Bester, J. Sibanyoni, C.M. Simmer, P. Olivier, P Lala
*Canadian

Safety • Quality • Sustainability • Innovation

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Oro Projects

23 February 2016

Ref. B409/12

HATCH GOBA
25 Riche fond circle
Ridgeside Office Park
Umhlanga
4319

Attention: Mr. Kendall Slater

Dear Sir,

Re: CONTRACT MW/15/2014 - NSEZI WASTE WATER TREATMENT WORKS AND ASSOCIATED BULK INFRASTRUCTURE OF A 20ML RESERVOIR

Enclosed herewith please find our payment application No.12 for period ending 20 February 2016

We trust the above meets with your approval and hold ourselves available should you require any further documentation or clarification.

Yours faithfully

Muhammad Haffajee

COMMISSION OF INQUIRY INTO STATE CAPTURE

Stefanutti Stocks Oro Joint Venture

14 Circuit Road, Westmead
PO Box 1587, Pinetown, 3600
TEL: +27 31 700 1410
FAX +27 31 700 1168

Oro Projects

TAX INVOICE
VAT REGISTRATION NO. 4930299081

CLIENT:	MHLATHUZE WATER CORNER OF SOUTH CENTRAL ARTERIAL AND BATTERY BANK ALTON RICHARDS BAY 3900 SOUTH AFRICA	**DATE:**	30 October 2015
		CERTIFICATE NO:	Nine
CONTRACT:	NSEZI WASTE WATER TREATMENT WORKS AND ASSOCIATED BULK INFRASTRUCTURE OF A 20ML RESERVOIR	**CONTRACT/PO NO:** **CLIENT VAT NO:**	MW/15/2014 4230103352
INVOICE NO.	B409/10	**MEASURED :**	30 October 2015
	ORIGINAL CONTRACT VALUE (excl.)		R 43 419 902.71
	PLUS (MINUS) NETT VARIATIONS		R
	AMENDED CONTRACT VALUE		R 43 419 902.71

MEASURED WORKS		23 328 007.52
VARIATIONS		1 637 883.07
ADVANCE PAYMENT		5 975 000.00
MATERIALS ON SITE @80% OF		2 928 129.41
		32 669 000.10
CONTRACT PRICE ADJUSTMENT (SEE ATTACHED ESCALATION SHEET)		
		32 669 000.10
LESS:	RETENTION at 0%	
		32 669 000.10
LESS:	PREVIOUSLY CERTIFIED	29 951 855.16
		2 717 345.94
ADD:	14% VAT.	380 426.15
	TOTAL PAYMENT DUE	3 097 772.09

FOR: STEFANUTTI STOCKS ORO JOINT VENTURE DATE: 30 October 2015
BANKING DETAILS : NEDBANK
BRANCH : CORPORATE CLIENT SERVICES JHB
ACCOUNT NO. : 1103263609
BRANCH CODE : 146405

COMMISSION OF INQUIRY INTO STATE CAPTURE

Stefanutti Stocks Oro Joint Venture

14 Circuit Road, Westmead
PO Box 1557, Pinetown, 3600
TEL: +27 31 700 1416
FAX +27 31 700 1188

Oro Projects

Date: 2015/10/30

MHLATHUZE WATER
PRIVATE BAG X1047
RICHARDS BAY
3900

ACCOUNT NO.: B409

DATE	REFERENCE	DETAILS	DEBIT	CREDIT
2015/04/24	B409/1	WORK DONE	5 268 344.88	
2015/06/05		PAYMENT RECEIVED		5 268 344.88
2015/05/25	B409/2	WORK DONE	1 394 063.52	
2015/07/09		PAYMENT RECEIVED		1 394 063.52
2015/06/04	B409/3	WORK DONE	8 000 000.00	
2015/06/30		PAYMENT RECEIVED		8 000 000.00
2015/06/18	B409/4	WORK DONE	598 796.54	
2015/06/30		PAYMENT RECEIVED		598 796.54
2015/06/18	B409/5	WORK DONE	740 267.59	
2015/06/30		PAYMENT RECEIVED		740 267.59
2015/07/23	B409/6	WORK DONE	6 739 216.76	
2015/08/04		PAYMENT RECEIVED		6 739 216.76
2015/08/24	B409/7	WORK DONE	2 321 935.09	
2015/09/30		PAYMENT RECEIVED		2 321 935.09
2015/09/22	B409/8	WORK DONE	3 179 171.89	
2015/10/29		PAYMENT RECEIVED		3 179 171.89
2015/10/25	B409/9	WORK DONE	5 903 091.75	
2015/10/30	B409/10	WORK DONE	3 097 772.09	
			37 242 660.11	28 241 798.27

90 DAYS	60 DAYS	30 DAYS	CURRENT	TOTAL
0.00	0.00	0.00	9 000 863.84	9 000 863.84

COMMISSION OF INQUIRY INTO STATE CAPTURE

STEFANUTTI STOCKS ORO PROJECTS JOINT VENTURE
PAYMENT APPLICATION SUMMARY

Oro Projects

DATE: 23 February 2016

CLIENT: MHLATHUZE WATER
CORNER OF SOUTH CENTRAL ARTERIAL AND BATTERY BANK
ALTON
RICHARDS BAY
3900

CERTIFICATE NO: Twelve(12)

CONTRACT: NSEZI WASTE WATER TREATMENT WORKS AND ASSOICIATED BULK INFRASTRUCTURE OF A 20ML RESERVOIR

CONTRACT NO: MW/15/2014
ORDER NO:

INVOICE NO. B409/13

MEASURED : 23 February 2016

CONTRACT SUMMARY (All values exclusive of vat)	
ORIGINAL CONTRACT VALUE (Contract Award)	43 419 902.71
CONTRACT PRICE ADJUSTMENTS (Estimated)	
APPROVED CHANGES	
AMENDED CONTRACT VALUE	43 419 902.71

Measured Work to Date			27 357 229.98	
ADD: Approved Changes			4 175 324.71	
ADD: Contract Price Adjustment	Refer to Attached Calculation Sheet		-	
ADD: Interest Charges			-	
Advance Payment			5 675 000.00	
Advance Payment Adjustment			-	
		Subtotal 1		37 207 554.67
DDT: Retention		0%	-	
		Subtotal 2		37 207 554.67
DDT: Discount Early Payment			-	
		Subtotal 3		37 207 554.67
ADD: Materials on Site	80%	-	-	2 773 714.17
	Total Claimed to Date	Subtotal 4		39 981 268.84
DDT: Previously Certified				35 605 526.13
		Subtotal 5		4 375 742.71
ADD: Vat		14%	612 603.98	
		TOTAL PAYMENT DUE		4 988 346.69

FOR: STEFANUTTI STOCKS ORO JOINT VENTURE

DATE: 23 February 2016

COMMISSION OF INQUIRY INTO STATE CAPTURE

New Company 28/04/15 15:44:53 MH — MW/15/2014 - Nsezi WTW- February 2016 MH

INTERIM VALUATION FEBRUARY 2016

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
		NSEZI WTW AND BULK INFRASTRUCTURE - CONSTRUCTION OF A 20ML RESERVOIR							
		SECTION A: PRELIMINARY AND GENERAL							
	1.1	FIXED-CHRAGE ITEMS							
154	1.1.1	Contractual requirements (main contractor)	Sum	1	1	0	1	4,630,456.44	4,630,456.44
		Establishment of Facilities on Site:							
		Facilities for the Engineer							
	1.1.2	a) Furnished office an conference room	Sum	1	1	0	1	133,026.60	133,026.60
	1.1.4	d) Carports	sum	1	1	0	1	11,970.00	11,970.00
	1.2	Time related items							
	1.2.1	Contractual requirements (Our - 12 months)	sum	1	0.67	0.08	0.75	3,240,005.16	2,430,003.87
		f) Plant (Contractor to specify)							
	1.2.16	Supervision for duration of constr (main contractor)	sum	1	0.67	0.08	0.75	1,812,501.94	1,209,376.46
	1.2.18	Other time related obligations	sum	1	0.67	0.08	0.75	1,452,275.61	1,089,206.71
	1.3	Provisional Sums							
	1.3.1	Allow for acceptance control testing	Prov S	100,000	12,950	0	12,950	1.00	12,950.00
	1.3.2	Overheads, charges, profit on item 1.3.1 above	%	100,000	12,950	0	12,950		1,942.50
		Total Page 154 9,518,932.58							
	1.4	Temporary Works							
155	1.4.1	Main access road to the works	sum	1	1	0	1	47,659.75	47,659.75
		Total Page 155 47,659.75							
		SECTION B: EARTHWORKS							
		PIPELINE							
		EARTHWORKS (PIPE TRENCHES)							
	2.1	Site Clearance							
		RUNNING TOTAL							9,566,592.33

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INTERIM VALUATION FEBRUARY 2016

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
156	2.1.1	a) Clear veg and trees of girth up to 1m along pipeline route for a working strip of up to 20m	m	286	216.63	0.00	216.63	238.46	51,657.59
	2.1.2	c) Remove top soil to the depth of 200mm and stockpile	m2	5,720	4,332.60	0.00	4,332.60	4.06	17,590.36
	2.1.3	Take down existing fences and replace when works complete	m	125	96.64	0.00	96.64	182.85	17,670.62
	2.2	Excavation a) Excavate in all materials for trenches, backfill and compact to a minimum 93% of Mod AASHTO density, including disposal of surplus and unsuitable material as directed by the Engineer for: i) Pipe dia over 900mm and upto and including 1220mm for trench depth:							
	2.2.1	1) Depth exceeding 2.0m but less than 3.0m	m	266	160.35	0.00	160.35	171.64	27,522.47
	2.2.2	2) Depth exceeding 3.0m but less than 4.0m	m	20	56.72	0.00	56.72	189.58	10,751.84
	2.4	Existing services that intersect or adjoin a pipe trench a) Services that intersect a trench							
	2.4.1	200 Diameter and above	no	5	2	0	2	624.89	1,249.78
	2.5	Chamber excavation Restricted excavation							
	2.5.1	a) Restricted excavation beyond the limits of the pipe trench for chambers to net outline of structure and to underside of blinding layers and for sumps including for backfilling, compaction and disposal of surplus material	m3	570	1,167.39	0.00	1,167.39	168.79	197,043.76
		Total Page 156 323,486.42							
		RESERVOIR							
	2.6	EARTHWORKS							
		Site preparation							
		RUNNING TOTAL							9,890,078.75

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INTERIM VALUATION FEBRUARY 2016

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
157	2.6.1	Clear and srtip site	m2	2,700	5,602.59	0.00	5,602.59	4.16	23,306.77
	2.6.2	Remove topsoil to nominal depth of 200mm, stockpile and maintain	m2	2,700	5,602.59	0.00	5,602.59	4.06	22,746.52
	2.7	Bulk excavation							
	2.7.1	a) Excavate in all materials and use for embankment or backfill	m3	8,500	10719.08	0.00	10719.08	38.11	408,594.14
	2.8	Restricted excavation Excavate for restricted foundations and footings							
	2.8.1	i) Stockpile or dispose within freehaul distance of 0.5km	m3	4,400	4,736.3	0.0	4,736.3	24.50	116,039.35
	2.9	Engineered fill Import material from commercial sources:							
	2.9.1	1) G5 material to Reservoir base 1000mm compacted to minimum 98% Mod AASHTO density in layers not more than 200mm	m3	2,100	2,728.86	0.00	2,728.86	459.50	1,253,543.57
	2.9.2	2) G7 material to Reservoir base 1000m compacted to minimum 98% Mod AASHTO density in layers not more than 200mm	m3	2,100	2,231.23	0.00	2,231.23	328.30	732,512.81
	2.9.3	Supply and lay geogrid fleximesh or similar geosynthetic materials, to manufacturers requirements Total Page 157 5,501,677.19 SECTION C: PIPELINE MEDIUM - PRESSURE PIPELINES	m2	2,100	14022.78	0.00	14022.78	210.01	2,944,924.63
	3.1	Supply, weld, lay, bed, test and disinfect pipes complete with couplings in trenches Grade X42 steel pipe to SANS 719, with coating and lining as specified on drawings and specifications							
158	3.1.1	1200NB 10mm wall thickness EO PSL 8.2.1 above for Supplying, laying and bending of specials complete with couplings	m	286	150	0	150	14,700.97	2,205,145.50
		RUNNING TOTAL							17,596,801.44

INTERIM VALUATION FEBRUARY 2016

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
		a) 1200NB Steel Bends-Bevel ended							
	3.1.5	b) 1200NB X 1200NB Long Radius	no	3	2	0	2	97,804.82	195,609.64
	3.2	Inlet chamber no 1 and 2							
	3.2.1	Item No 1 - Steel pipe grade X42	no	4	2	0	2	115,259.26	230,518.52
		Total Page 158 2,631,278.66							
	3.4	Outlet chamber no 1							
159	3.4.1	Item No 1 - 1200 NB Steel pipe grade X42	no	1	1	0	1	87,949.67	87,949.67
	3.4.3	Item no 3 - DN1200 Steel flange adaptor	no	1	1	0	1	26,223.89	26,223.89
	3.4.4	Item No 4 - 1200 NB Steel pipe grade X42	no	1	1	0	1	86,320.23	86,320.23
	3.5	Scour chamber fittings							
	3.5.1	Item no 1 - 400NB Steel pipe grade X42	no	1	1	0	1	15,919.07	15,919.07
	3.5.2	Item no 2 - DN400 Restrained Steel flange adaptor	no	1	1	0	1	5,431.52	5,431.52
	3.5.3	Item no 3 - 400NB Steel pipe grade X42, 90 degree short	no	1	1	0	1	16,014.45	16,014.45
	3.5.4	Item no 3 - 400NB Steel pipe grade X42, 6mm thick wall	no	1	1	0	1	11,058.73	11,058.73
	3.6	Reservoir inlet fittings							
	3.6.1	Item no 1 - 1500NB x 1200NB Steel Ballmout grade X42	no	1	1	0	1	32,881.34	32,881.34
	3.6.2	Item no 2 - 1200NB Steel Short radius 3 segmented bend gate	no	1	1	0	1	98,312.51	98,312.51
	3.6.3	Item no 3 - 1200NB Steel pipe grade X42	no	1	1	0	1	163,686.83	163,686.83
	3.7	Reservoir outlet fittings							
	3.7.1	Item no 1 - 1500NB x 1200NB Steel Ballmout grade X42	no	1	1	0	1	24,835.54	24,835.54
	3.7.2	Item no 2 - 1200NB Steel Short radius 3 segmented bend gate	no	1	1	0	1	69,886.79	69,886.79
	3.7.3	Item no 3 - 1200NB Steel pipe grade X42	no	2	1	0	1	112,691.39	112,691.39
		Total Page 159 745,211.86							
		RUNNING TOTAL							18,768,141.56

INTERIM VALUATION FEBRUARY 2016

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
	3.8	Reservoir overflow fitings							
160	3.8.3	Item no 3 - 1200NB Steel pipe grade X42	no	1	1	0	1	47,829.18	47,829.18
	3.8.4	Item no 4 - 1200NB Steel Short radius 3 segmented bend grade	no	1	1	0	1	50,207.52	50,207.52
	3.8.5	Item no 5 - 1200NB Steel pipe grade X42	no	1	1	0	1	98,455.10	98,455.10
	3.9	Scour chamber fittings							
	3.9.1	Item no 1 - 400NB Steel pipe grade X42	no	1	1	0	1	19,501.26	19,501.26
	3.9.2	Item no 2 - 400NB Steel pipe grade X42,	no	1	1	0	1	17,035.80	17,035.80
	3.9.3	Item no 3 - 400NB Steel pipe grade X42, 6mm thick wall	no	6	6	0	6	12,481.28	74,887.68
	3.9.4	Item no 4 - 400NB Steel pipe grade X42,	no	1	1	0	1	18,651.79	18,651.79
	3.9.5	Item no 5 - 400NB Steel pipe grade X42,	no	1	1	0	1	33,414.81	33,414.81
		Total Page 160 359,788.14							
		BEDDING PIPES							
	3.15	Supply of bedding from trench excavations							
161	3.15.2	b) Selected fill material	m3	100	49.104	0.000	49.104	37.19	1,826.18
		Supply of bedding by importation from commercial sources							
	3.15.4	a) Selected granular material	m3	1,015	320	0	320	326.78	104,569.60
	3.16	Stormwater Drainage							
		Supply, lay, etc							
	3.16.1	a) 1050mm ND class 500	m	50	19.52	0.00	19.52	2,316.33	45,214.76
		Total Page 161 151,610.54							
		SECTION D: STRUCTURES							
		CHAMBERS							
	4.1	Formwork							
162	4.1.1	Rough vertical to exposed faces	m2	300	254.27	0.00	254.27	497.68	103,660.79
	4.1.2	a) Smooth vertical	m2	300	216.23	0.00	216.23	427.77	92,496.71
	4.1.3	b) Smooth horizontal	m2	100	29.05	0.00	29.05	589.99	17,136.80
		RUNNING TOTAL							19,492,829.34

INTERIM VALUATION FEBRUARY 2016

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
		Formwork to narrow widths up to 300mm wide							
	4.1.4	a) Rough vertical	m	165	122.26	0.00	122.26	224.03	27,389.91
	4.1.5	b) Smooth vertical	m	120	40.13	0.00	40.13	224.03	8,990.32
	4.1.6	Forming rectangular holes in roof slab up to 250mm thick for manhole frames 925mm x 625mm	no	5	3	0	3	563.19	1,689.57
		Casting pipework into walls up to 600mm thick. Wrapping of pips measured elsewhere							
	4.1.7	a) DN1200 - through inlet and outlet chamber walls	no	7	4	0	4	4,624.81	18,499.24
	4.1.8	b) DN400 - through scour chamber walls	no	2	2	0	2	1,251.39	2,502.78
	4.2	Unformed surface finish							
	4.2.1	a) Wood float to roof slabs	m2	180	156.74	0.00	156.74	17.10	2,680.25
	4.3	Reinforcement							
	4.3.2	High tensile steel bars	t	30	13.82	0.00	13.82	11,455.82	158,319.43
	4.4	Concrete							
	4.4.2	Blinding layer 15mpa/19mm to min 75mm	m2	180	127.69	0.00	127.69	129.83	16,577.99
		Strength concrete							
	4.4.4	Grade 30mpa/19mm Chamber floor slabs	m3	55	37.42	0.00	37.42	1,684.78	63,044.47
	4.4.5	Grade 30mpa/19mm Chamber walls	m3	125	78.84	0.00	78.84	1,694.95	133,629.86
	4.4.6	Grade 30mpa/19mm Chamber roof slabs	m3	17	7.29	0.00	7.29	1,684.78	12,282.05
	4.5	Manufacture and erect precast elements							
	4.5.1	a) Pre-cast planks to inlet Chamber no 1 and 2 roof slabs as shown in drawing H346307-0000-50-035-0001-001	no	26	13	0	13	2,805.73	36,474.49
	4.5.2	b) Pre-cast planks to outlet chamber no 1 roof slabs as shown in drawing H346307-0000-50-035-0004-001	no	9	9	0	9	2,322.49	20,902.41
	4.5.3	b) Pre-cast planks to outlet chamber no 2 roof slabs as shown in drawing H346307-0000-50-035-0002-001	no	5	5	0	5	1,792.49	8,962.45
		RUNNING TOTAL							20,884,774.56

INTERIM VALUATION FEBRUARY 2016

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
	4.5.4	d) Pre-cast planks to scour chamber roof slabs as shown in drawing H346307-0000-50-035-0003-001	no	3	3	0	3	2,881.42	8,644.26
	4.6	Miscellaneous							
	4.6.2	Supply and install polymer manhole cover and frame - Type SE "Maverick" or similar approved including locking mechanism all as per typical detail on drawing number H346307-0000-50-035-0001-001	no	5	3	0	3	2,468.35	7,405.05
	4.6.3	Supply lock and keys for above mechanism	no	5	3	0	3	879.68	2,639.04
		Total Page 162 743,927.67							
		Reservoir							
	4.7	Formwork							
		Rough to:							
163	4.7.2	Narrow widths (500mm) to wall footing edge, external, circular	m	155	154.88	0.00	154.88	228.05	35,329.38
	4.7.3	Narrow widths (250mm) to wall footing shear key	m	148	146.08	0.00	146.08	186.76	27,273.14
		Smooth to:							
	4.7.4	Vertcal to internal and external wall, circular	m2	3,600	2,288.62	877.32	3,165.94	351.56	1,113,017.87
	4.7.5	Special to domed roof soffit, complete	m2	1,800	0	675	675	809.89	546,675.75
	4.7.8	Narrow widths (400mm) to buttress edge	m	103	67.8	22.8	90.6	298.71	27,063.13
	4.7.9	Form recesses in buttress for anchorages as indicated on drawing number: H346307-0000-30-035-0004-001	no	96	78	18	96	238.97	22,941.12
	4.7.10	Narrow widths (1000mm) to scour sump internal	m	10	9	0	9	746.78	6,721.02
		Casting pipework into slab up to 300mm thick. Wrapping of pipe measured elsewhere							
	4.7.13a	a) DN1200 - through reservoir slab	no	3	3	0	3	5,675.59	17,026.77
	4.8	Reinforcement							
	4.8.1	Mild steel of all diameters	t	26	0.02	0.00	0.02	11,455.82	229.12
		RUNNING TOTAL							21,819,731.21

INTERIM VALUATION FEBRUARY 2016

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
	4.8.2	High tensile steel of all diameters	t	230	154.97	13.75	168.72	11,455.82	1,932,825.95
	4.9	Post tensioning							
		By special PT sub-contractor							
	4.9.1	PT design and supply, in accordance with drawing number H345307-0000-30-035-0004-001 including working drawings for Engineer approval, sheathing, stools, anchorages, supply threading and stressing of low relaxation multi-strand, supply of non-shrink grout additive, corrosion inhibitor, grouting pipes and placement of grout (Sika Intraplas-Z and Sikagard 901 admixture or similar approved)	sum	1	0.25	0.00	0.25	1,362,094.61	340,523.65
		By main contractor							
	4.9.2	Placement only by main contractor, including sheathing and anchorages	sum	1	0.7	0.175	0.875	16,198.00	14,173.25
		Total Page 163 4,888,791.15							
	4.1	Concrete							
164	4.10.1	No-fines concrete, 100mm thick including skimmed blinded surface	m3	200	191.42	0.00	191.42	1,981.72	379,340.84
	4.10.2	i) 15Mpa/19mm mass concrete where ordered by the Engineer (provisional)	m3	20	3.44	0.00	3.44	1,541.28	5,302.00
		Prescribed mix concrete 35mpa/19mm (see PSG) to:							
	4.10.5	i) Floor slab	m3	320	312.1	0.0	312.1	1,789.82	558,602.82
	4.10.6	ii) Wall footing	m3	245	241.61	0.00	241.61	1,789.82	432,438.41
	4.10.7	iii) Wall	m3	764	515.82	195.31	711.13	1,789.82	1,272,794.76
	4.11	Unformed surface finishes							
	4.11.1	Power float finish to floor and wall footing	m2	1,910	1,908.9	0.0	1,908.9	37.70	71,965.53
	4.11.2	Steel float finish to top of reservoir wall	m2	80	0	31.8	31.80	22.75	723.45
	4.12	Joints							
		Casting joints complete, including all preparation, material and labour:							
		RUNNING TOTAL							26,828,421.81

INTERIM VALUATION FEBRUARY 2016

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
	4.12.1	Floor joint type FJ1	m	300	412.56	0.00	412.56	644.98	266,092.95
		Movement joints complete, including all preparation, material and labour:							
	4.12.5	Wall sliding joint type WJS, complete with bearings (double row required at buttress), filler, Sondor fillet, Sika Combiflex, including required preparation	m	149	163.34	0.00	163.34	1,186.09	193,735.94
		Miscellaneous							
	4.12.7	Water barrier, 250 micron DPC below no-fines layer	m3	1,910	1,908.9	0.0	1,908.9	11.65	22,238.69
	4.12.8	Sikaswell "P-2010" swellable joint sealant or similar approved around pipework cast in concrete	m	20	11.50	0.00	11.50	254.96	2,932.04
		Total Page 164 3,206,167.87							
	4.14	Under floor drainage							
		Supply, lay, joint HDPE "Drainex" non-slotted pipes or similar approved							
165	4.14.1	75mm Dia	m	110	101.69	0.00	101.69	69.30	7,047.12
		Supply, lay, joint in no fines conrete layer HDPE 'Drainex" slotted pipes or similar approved							
	4.14.2	75mm dia under drain	m	211	344.03	0.00	344.03	72.49	24,938.73
		Extra over 8.2.1 above for the supply, lay and bedding of HDPE "Drainex" type fittings or similar approved							
	4.14.3	75mm dia 90 degree bend	no	2	12.00	0.00	12.00	72.95	875.40
	4.14.6	75mm dia 45degree bend	no	2	8.00	0.00	8.00	72.95	583.60
	4.15	Miscellaneous							
	4.15.4	Drill and grout in Y20 dowels	no	312	58.00	0.00	58.00	39.26	2,277.08
		Total Page 165 35,721.93							
		SECTION E: DAYWORKS							
	5.2	Labour							
166	5.2.3	Unskilled labourers	Hr	600	200.66	0.00	200.66	40.30	8,086.60
		Total Page 166 8,086.60							
		RUNNING TOTAL							27,357,229.96

INTERIM VALUATION FEBRUARY 2016

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
	A	MATERIALS ON SITE							
167	D	Fleximesh	m2	0	98.22	0.00	98.22	62.51	6,139.73
	E	Reinforcing Supply @ 80% of Quantity	t	0	34.32	0.00	34.32	8,100.00	277,992.00
	F	1200NB 10mm wall thickness 3.1.1	m	0	126	0	126	8,820.00	1,111,320.00
	I	Item no 9 - 800NB Fabricated steel equal tee@60SR	no	0	1.20	0.00	1.20	39,950.89	47,941.07
	L	Item no 8 - 800NB Steel blank flange@60%SR	no	0	1.20	0.00	1.20	35,419.95	42,503.94
	M	Item no 10 - 200 NB x 50NB unequal tee@60%SR	no	0	1.20	0.00	1.20	5,531.49	6,637.79
	N	Item no 12 - DN1200 Steel flange adaptor@60%SR	no	0	1.20	0.00	1.20	27,162.26	32,594.71
	O	Item No 1 - 1200 NB Steel pipe grade X42@60%SR	no	0	0.60	0.00	0.60	58,431.06	35,058.64
	P	Item no 2 - DN1200 Steel flange adaptor@60%SR	no	0	1.20	0.00	1.20	26,223.89	31,468.67
	Q	Item no 3 - 1200NB x 900NB Steel reducer grade X42@60%SR	no	0	1.20	0.00	1.20	24,853.93	29,824.72
	S	Item no 1 - 1500NB X 1200NB Steel Ballmout grade X42@60%SR	no	0	0.60	0.00	0.60	29,601.50	17,760.90
	T	Item no 2 - 1200NB Steel pipe grade X42@60%SR	no	0	0.60	0.00	0.60	163,163.02	97,897.81
	U	c) 1200NB Blank flanges@60%SR	no	0	1.20	0.00	1.20	26,231.19	31,477.43
	V	b) 1200NB x 1200NB Long Radius@60%SR	no	0	0.6	0.0	0.6	97,804.82	58,682.89
	W	Item No 1 - Steel pipe grade X42@60%SR	no	0	1.2	0.0	1.2	115,259.26	138,311.11
	X	Item no 2 - 1200NB x 900NB Steel reducer grade X42@60%SR	no	0	2.4	0.0	2.4	87,680.16	210,432.38
	V	Supply and install polymer manhole cover and frame - Type SE "Maverick" or similar approved including locking mechanism all as per typical detail on drawing number H346307-0000-50-035-0001-001@80% Material Rate	no	0	1	0	1	1,448.00	1,448.00
	X	Wall-Roof Bearing	m	0	160	0	160	157.60	25,216.00
		RUNNING TOTAL							29,559,937.75

INTERIM VALUATION FEBRUARY 2016

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
	Y	Item no 4 - DN900 Double flanged butterfly valve@60%SR	no	0	0	2.4	2.4	126,917.63	304,602.31
	Z	Item no 9 - DN 200 Double flanged resilient seal gate valve@60%SR	no	0	0	1.2	1.2	14,348.86	17,218.63
	AA	Item no 11 - DN200 ARI or similar@60%SR	no	0	0	1.2	1.2	12,211.79	14,654.15
	AB	Item no 4 - DN900 Double flanged butterfly valve@60%SR	no	0	0	0.6	0.6	126,045.04	75,627.02
	AC	Item no 2 - DN1200 Double flanged butterfly valve@60%SR	no	0	0	0.6	0.6	242,449.07	145,469.96
	AD	Item no 4 - DN400 Double flanged butterfly valve@60%SR	no	0	0	0.6	0.6	22,390.48	13,434.29
	D	VARIATION ITEMS							
	D	SAVING - Supply and lay geogrid fleximesh or similar geosynthetic materials, to manufacturers requirements	m2	0	-14022.7	0.00	-14022.7	64.21	-900,462.70
	E	Removal of Tree Stumps	No.	0	141	0	141	1,372.00	193,452.00
	F	Rip & Recompact Insitu Material Reservoir		0	2,231.23	0.00	2,231.23	38.00	84,786.74
	G	Rip & Recompact Insitu Material Chambers		0	230	0	230	38.00	8,740.00
	J	N008/MH-V04	no	0	1	0	1	175,183.13	175,183.13
	K	N009/MH-V04	no	0	1	0	1	361,636.46	361,636.46
	L	N010/MH-V04	no	0	1	0	1	77,152.13	77,152.13
	M	Payment Invoice	Sum	0	1	0	1	2,200,000.00	2,200,000.00
	O	Hand Dig	m3	0	112.88	0.00	112.88	454.35	51,287.03
	W	Employer/Engineer Requirements	Sum	0	0	1	1	1,923,489.92	1,923,489.92
		Total Page 167 6,949,838.88							
		RUNNING TOTAL							34,306,268.84

INTERIM VALUATION OCTOBER 2015

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
	E	Reinforcing Supply @ 80% of Quantity	t	0	10.39	23.93	34.32	8,100.00	277,992.00
	F	1200NB 10mm wall thickness 3.1.1	m	0	214	-61.6	152.4	8,820.00	1,344,168.00
	I	Item no 3 - 800NB Fabricated steel equal tee@60%R	no	0	1.20	0.00	1.20	39,950.89	47,941.07
	L	Item no 8 - 800NB Steel blank flange@60%SR	no	0	1.20	0.00	1.20	35,419.95	42,503.94
	M	Item no 10 - 200 NB x 50NB unequal tee@60%SR	no	0	1.20	0.00	1.20	5,531.49	6,637.79
	N	Item no 12 - DN1200 Steel flange adaptor@60%SR	no	0	1.20	0.00	1.20	27,162.26	32,594.71
	O	Item No 1 - 1200 NB Steel pipe grade X42@60%SR	no	0	0.60	0.00	0.60	58,431.06	35,058.64
	P	Item no 2 - DN1200 Steel flange adaptor@60%SR	no	0	1.20	0.00	1.20	26,223.89	31,468.67
	Q	Item no 3 - 1200NB x 900NB Steel reducer grade X42@60%SR	no	0	1.20	0.00	1.20	24,853.93	29,824.72
	S	Item no 1 - 1500NB x 1200NB Steel Ballmout grade X42@60%SR	no	0	0.60	0.00	0.60	29,601.50	17,760.90
	T	Item no 2 - 1200NB Steel pipe grade X42@60%SR	no	0	0.60	0.00	0.60	163,163.02	97,897.81
	U	c) 1200NB Blank flanges@60%SR	no	0	1.20	0.00	1.20	26,231.19	31,477.43
	V	Supply and install polymer manhole cover and frame - Type 9E "Maverick" or similar approved including locking mechanism all as per typical detail on drawing number H3463G7-0000-50-935-0001-001680% Material Rate	no	0	4	-3	1	1,448.00	1,448.00
	W	Floor-Wall Bearing	m	0	160	-160	0	268.00	0.00
	X	Wall-Roof Bearing	m	0	160	0	160	157.68	25,216.00
	D	VARIATION ITEMS							
	D	SAVING - Supply and lay geogrid fleximesh or similar geosynthetic materials, to manufacturers requirements	m2	0	-14022.7	0.00	-14022.7	64.21	-900,402.70
	E	Removal of Tree Stumps	No.	0	141	0	141	1,372.00	193,452.00
		RUNNING TOTAL							24,340,585.86

New Company 28/04/15 15:44:53 MH

MW/15/2014 - Nsezi WTW- October 2015 (MH)

INTERIM VALUATION OCTOBER 2015

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
	F	Rip & Recompact Insitu Material Reservoir		0	2,231.23	0.00	2,231.23	38.00	84,786.74
	G	Rip & Recompact Insitu Material Chambers		0	0	230	230	38.00	8,740.00
	M	Payment Invoice	Sum	0	0	1	1	2,000,000.00	2,000,000.00
		Total Page 167 3,414,795.45							
		RUNNING TOTAL							28,434,112.39

New Company 28/04/15 15:44:53 MH — MW/15/2014 - Nsezi WTW- October 2015 (MH)

HEADING SUMMARY OF INTERIM VALUATION OCTOBER 2015

PAGE	SECTION	LEVEL	PREVIOUS	PRESENT	AMOUNT
154	NSEZI WTW AND BULK INFRASTRUCTURE - CONSTRUCTION OF A 20ML RESERVOIR	1	18,453,293.19	3,566,113.66	23,019,406.85
154	SECTION A: PRELIMINARY AND GENERAL	2	7,436,014.03	564,382.62	7,990,396.65
158	SECTION B: EARTHWORKS	2	5,825,063.61		5,825,063.61
158	SECTION C: PIPELINE	2	2,318,151.30	907,405.93	3,225,557.23
162	SECTION D: STRUCTURES	2	3,824,064.25	2,146,238.51	5,970,302.76
166	SECTION E: DAYWORKS	2	0.00	8,086.60	8,086.60
167	MATERIALS ON SITE	1	2,424,832.41	-396,703.00	2,028,129.41
167	VARIATION ITEMS	1	-622,163.96	2,008,740.00	1,388,576.04
	VALUATION TOTAL		21,255,961.64	5,178,158.56	26,434,112.30

DD34-DCM-506

lathuze Water
Vate Bag X1047
chards Bay
NAZULU NATAL
)00

Telephone +2[illegible]902 1000
Fax
VAT number 4230103352

MHLATHUZE
WATER • AMANZI

SO JOINT VENTURE
4 CIRCUIT ROAD, WESTMEAD, PINETOWN, 3610
.O. BOX 1567, PINETOWN 3600
001

POSTED
04-11-2015

Delivery Note

Delivery number	B409/10
Date	04/11/2015
Page	1 of 1
Purchase order	PO000017029
Internal product receipt	00033511_046
Buyer Id	Andile Nyide

quisition	Item number	Item name	Description	Ordered	Unit	Received	Remaining quantity	Purchase price	Net amount
)0022279	1481	NS-PP&E - Civil works	SSO JV on the Nsezi WTW &associated infrastructure- Construction of a 20MLResevoir MW/15/2014 Quantity : 2 717 343.94 Warehouse : MO	17 365 287.90	EACH	2 717 343.94	14 647 943.96	1.00	2 717 343.94
									2 717 343.94

PROCESSED
04-11-2015

Approval for payment

Originated by : Nqobile Chonco

Authorised by : S. Xulu
~~Sibusiso Makhanya~~

Date Approved : 04/11/2015

Mathuze Water
Private Bag X1047
Richards Bay
KWAZULU NATAL
3900

Telephone +27 35 902 1000
Fax
VAT registration number 4230103352

Invoice

Number 8409/10
Date 11/4/2015
Page Page 1 of 1
Purchase order PO0000017029

Internal number 00048116_047
Payment Net 30 days

O JOINT VENTURE

CIRCUIT ROAD, WESTMEAD,
PINETOWN, 3610
P.O. BOX 1567, PINETOWN 3600
3101

Item number	Description	Quantity	Size	Colour	Configuration	Unit	Unit price	Discount percent	Discount	Amount
181	SSO JV on the Nseze WTW Associated Infrastructure- Construction of a 20MLReservoir MW/15/2014	2,717,343.94				EACH	1.00	0.00	0.00	2,717,343.94

Total amount	Total discount	Charges	VAT	Round-off	Total	Currency
2,717,343.94	0.00	0.00	380,428.15	0.00	3,097,772.09	ZAR

PROCESSED
04-11-2015

POSTED
04-11-2015

MHLATHUZE WATER

AANBEVEEL / RECOMMENDED	DATUMS
	20/5/11/04
GOEDGEKEUR / APPROVED	DATES
	2015/11/04

Stefanutti Stocks / Oro JV

14 Circuit Road, Westmead
PO Box 1557, Pinetown, 3600, South Africa
Tel: +27 31 700 1416
Fax: +27 31 700 1188
www.stefstocks.com

Oro Projects

Client Information
MHLATHUZE WATER
Corner of South Central Aterial and Battery Bank
Alton
Richards Bay
3900

Customer VAT No. : 4230103352
Client Reg No.

Tax Invoice

B409/10

VAT Number : 4930269061
Invoice Date : 30/10/2015
Order No : P O NO. MW/15/2014
Enquiries to :

Description/Comments	Account Code	Amount
Work Done on Certificate # 10 (October 2015) Nsezi Wasdle Water Treatment Works & Associated Bulk Infrastructure of a 20 Ml Reservoir P O Number MW/15/2014	400100-B409	2,717,343.94

PROCESSED 04-11-2015

POSTED 04-11-2015

MHLATHUZE WATER
AANBEVEEL / RECOMMENDED / GOEDGEKEUR / APPROVED
DATUMS / DATES 2015/11/02
AUTHORISATION FOR PAYMENT
PAID
DATE 03/11/2015

Subtotal	**2,717,343.94**
VAT	**380,428.15**
Amount Due	**3,097,772.09**

Bank Details
Nedbank
Branch Code:145405
Branch :Corporate Client Servi
Acc No. 1103 253 809
Acc Name:Stefanutti Stocks / Oro JV
Swift Number.
Reference: B409/10

Invoice Paper Number: 16672

* A Joint Venture between: | Stefanutti Stocks Civils KZN, a division of Stefanutti Stocks (Pty) Ltd Reg No.: 2003/022221/07
| ORO Management Services Reg No. : 2000/003744/23

016672 (Stefanutti Stocks control number – this is not the invoice number)

COMMISSION OF INQUIRY INTO STATE CAPTURE

HATCH GOBA
Member of the Hatch Group

25 Richefond Circle, Ridgeside Office Park,
Umhlanga, 4319, South Africa
P O Box 25401, Gateway, 4321, South Africa
Tel: +27 31 536 9400•Fax: +27 31 536 9500•www.hatch.ca

Hatch Goba (Pty) Ltd.
Reg. No. 1995/007273/07

02 November 2015

Miss Andile Ngwane
Mhlathuze Water
Cnr of South Central Arterial and Battery Bank
Alton
Richards Bay
3900

Dear Madam,

Nsezi WTW and Associated Bulk Infrastructure - Construction of a 20 ML Reservoir

Contract No. MW/15/2014 - Payment Certificate No. 10

Attached for your further attention, please find Payment Certificate No. 10 on the above-mentioned Contract, together with the Contract's VAT invoice amount certified as payable.

The Certificate covers work completed up to 30 October 2015.

Yours faithfully

pp

K Slater Pr Eng

KS :nr
Ref.: H346307-0000-91-218-0010_.docx
Attachment(s)/Enclosure: Payment Certificate No. 10
cc:
SSO JV,
Mr John Woodburn

Directors: T.T. Goba (Chairman), *J.G. Bianchini (Vice-Chairman), R.H. Astell, A.G. Auret, V. Beepath, H.J. Bester, J. Sibanyoni, C.M. Simmer, P. Olivier, P Lala
*Canadian

Safety • Quality • Sustainability • Innovation

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MHLATHUZE WATER
CERTIFICATE OF PROGRESS PAYMENT

	MHLATHUZE WATER MW/15/2014		30-Oct-15 10
	NSEZI WTW & ASSOCIATED INFRASTRUCTURE - CONSTRUCTION OF A 20 ML RESERVOIR		
	SSO JV		
Contract Works Amount Contingency Sum Add 10% Escalation Add 14% VAT			R 43 419 902.71 R 4 341 990.27 R 4 776 189.30 R 7 355 331.52
Total Tender Amount inclusive of 14% VAT			R 59 893 413.80

PREVIOUS PAYMENTS		
Cert No.	Amount	14 % VAT
1	R 4 621 355.15	R 648 989.72
2	R 1 222 862.74	R 171 200.78
3	R 7 017 543.86	R 982 456.14
4	R 525 260.12	R 73 536.42
5	R 649 357.54	R 90 910.06
6	R 5 911 593.65	R 827 623.11
7	R 2 036 785.17	R 285 149.92
8	R 2 788 747.27	R 390 424.62
9	R 5 178 150.66	R 724 941.09
Total	R 29 951 656.16	R 4 193 231.86

Value of work done		R 23 329 007.62
Advance Payment		R 5 675 000.00
(Add 14% VAT)		R 4 050 421.07
Escalation		R 0.00
(Add 14% VAT)		R 0.00
Materials on Site (60%)		R 2 028 129.41 ✓
(Add 14% VAT)		R 283 938.12
Variation Orders		R 1 637 863.07 ✓
(Add 14% VAT)		R 229 300.83
Savings		R 0.00
(add 14% VAT)		R 0.00
Total Previous payments	R 29 951 656.16	
(Add 14% VAT)	R 4 193 231.86	
Retention money	R 0.00	
(Add 14% VAT)	R 0.00	
TOTAL PAYMENT NOW DUE (VAT Incl.)	**R 3 097 772.09**	
	R 37 242 660.11	R 37 242 660.11

I certify that the payment is in accordance with the terms of the contract and that the work to the value of the amount payable has been properly performed.

CERTIFIED CORRECT

for Contractor - SSO JV

02/11/2015
DATE

for Engineer - Hatch Goba (Pty) Ltd

02/11/2015
DATE

for Employer - Mhlathuze Water

2015/11/02
DATE

Oro Projects

30 October 2015

Ref. B409/9

HATCH GOBA
25 Riche fond circle
Ridgeside Office Park
Umhlanga
4319

Attention: Mr. Kendall Slater

Dear Sir,

Re: CONTRACT MW/15/2014 - NSEZI WASTE WATER TREATMENT WORKS AND ASSOICIATED BULK INFRASTRUCTURE OF A 20ML RESERVOIR

Enclosed herewith please find our payment application No.9 for period ending 30 October 2015

We trust the above meets with your approval and hold ourselves available should you require any further documentation or clarification.

Yours faithfully

Muhammad Haffajee

COMMISSION OF INQUIRY INTO STATE CAPTURE

STEFANUTTI STOCKS ORO PROJECTS JOINT VENTURE
PAYMENT APPLICATION SUMMARY

Oro Projects

DATE: 30 October 2015

CLIENT: MHLATHUZE WATER
CORNER OF SOUTH CENTRAL ARTERIAL AND BATTERY BANK
ALTON
RICHARDS BAY
3900

CERTIFICATE NO: Nine(9)

CONTRACT: NSEZI WASTE WATER TREATMENT WORKS
AND ASSOICIATED BULK INFRASTRUCTURE
OF A 20ML RESERVOIR

CONTRACT NO: MW/15/2014
ORDER NO:

INVOICE NO. 8409/10

MEASURED : 30 October 2015

CONTRACT SUMMARY (All values exclusive of vat)	
ORIGINAL CONTRACT VALUE (Contract Award)	43 419 902.71
CONTRACT PRICE ADJUSTMENTS (Estimated)	
APPROVED CHANGES	
AMENDED CONTRACT VALUE	43 419 902.71

Measured Work to Date			23 328 007.62	
ADD: Approved Changes			1 637 863.07	
ADD: Contract Price Adjustment	Refer to Attached Calculation Sheet		-	
ADD: Interest Charges			-	
Advance Payment			5 675 000.00	
Advance Payment Adjustment			-	
		Subtotal 1		30 640 870.69
DDT: Retention		0%	-	
		Subtotal 2		30 640 870.69
DDT: Discount Early Payment			-	
		Subtotal 3		30 640 870.69
ADD: Materials on Site	80%	-		2 028 129.41
Total Claimed to Date		Subtotal 4		32 669 000.10
DDT: Previously Certified				29 951 656.16
		Subtotal 5		2 717 343.94
ADD: Vat		14%	380 428.15	
		TOTAL PAYMENT DUE		3 097 772.09

FOR: STEFANUTTI STOCKS ORO JOINT VENTURE

DATE: 30 October 2015

COMMISSION OF INQUIRY INTO STATE CAPTURE

New Company 28/04/15 15:44:53 MH — MW/15/2014 - Nsezi WTW- October 2015 (MH)-Adv.

INTERIM VALUATION OCTOBER 2015.1

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
		NSEZI WTW AND BULK INFRASTRUCTURE - CONSTRUCTION OF A 20ML RESERVOIR							
		SECTION A: PRELIMINARY AND GENERAL							
	1.1	FIXED-CHRAGE ITEMS							
154	1.1.1	Contractual requirements (main contractor)	Sum	1	1	0	1	4,630,456.44	4,630,456.44
		Establishment of Facilities on Site:							
		Facilities for the Engineer							
	1.1.2	a) Furnished office an conference room	sum	1	1	0	1	133,026.60	133,026.60
	1.1.4	d) Carports	sum	1	1	0	1	11,970.00	11,970.00
	1.2	Time related items							
	1.2.1	Contractual requirements (Dur - 12 months)	sum	1	0.50	0.00	0.50	3,240,005.16	1,620,002.58
		j) Plant (Contractor to specify)							
	1.2.16	Supervision for duration of constr (main contractor)	sum	1	0.5	0.0	0.5	1,612,501.94	806,250.97
	1.2.18	Other time related obligations	sum	1	0.5	0.0	0.5	1,452,275.61	726,137.81
	1.3	Provisional Sums							
	1.3.1	Allow for acceptance control testing	Prov S	100,000	12,950	0	12,950	1.00	12,950.00
	1.3.2	Overheads, charges, profit on item 1.3.1 above	%	100,000	12,950	0	12,950		1,942.50
		Total Page 154 7,942,736.90							
	1.4	Temporary Works							
155	1.4.1	Main access road to the works	sum	1	1	0	1	47,659.75	47,659.75
		Total Page 155 47,659.75							
		SECTION B: EARTHWORKS							
		PIPELINE							
		EARTHWORKS (PIPE TRENCHES)							
	2.1	Site Clearance							
		RUNNING TOTAL							7,990,396.65

INTERIM VALUATION OCTOBER 2015.1

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
156	2.1.1	a) Clear veg and trees of girth up to 1m along pipeline route for a working strip of up to 20m	m	286	216.63	0.00	216.63	238.46	51,657.59
	2.1.2	c) Remove top soil to the depth of 200mm and stockpile	m2	5,720	4,332.60	0.00	4,332.60	4.06	17,590.36
	2.1.3	Take down existing fences and replace when works complete	m	125	96.64	0.00	96.64	182.85	17,670.62
	2.2	Excavation							
		a) Excavate in all materials for trenches, backfill and compact to a minimum 93% of Mod AASHTO density, including disposal of surplus and unsuitable material as directed by the Engineer for:							
		i) Pipe dia over 900mm and upto and including 1220mm for trench depth:							
	2.2.1	1) Depth exceeding 2.0m but less than 3.0m	m	266	160.35	0.00	160.35	171.64	27,522.47
	2.2.2	2) Depth exceeding 3.0m but less than 4.0m	m	28	56.72	0.00	56.72	189.56	10,751.84
	2.4	Existing services that intersect or adjoin a pipe trench							
		a) Services that intersect a trench							
	2.4.1	200 Diameter and above	no	5	2	0	2	624.89	1,249.78
	2.5	Chamber excavation							
		Restricted excavation							
	2.5.1	a) Restricted excavation beyond the limits of the pipe trench for chambers to net outline of structure and to underside of blinding layers and for sumps including for backfilling, compaction and disposal of surplus material	m3	570	1,167.39	0.00	1,167.39	168.79	197,043.76
		Total Page 156 323,488.42							
		RESERVOIR							
	2.6	EARTHWORKS							
		Site preparation							
		RUNNING TOTAL							2,313,883.07

INTERIM VALUATION OCTOBER 2015.1

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
157	2.6.1	Clear and srtip site	m2	2,700	5,602.59	0.00	5,602.59	4.16	23,306.77
	2.6.2	Remove topsoil to nominal depth of 200mm, stockpile and maintain	m2	2,700	5,602.59	0.00	5,602.59	4.06	22,746.52
	2.7	Bulk excavation							
	2.7.1	a) Excavate in all materials and use for embankment or backfill	m3	8,500	10719.08	0.00	10719.08	38.11	408,504.14
	2.8	Restricted excavation							
		Excavate for restricted foundations and footings							
	2.8.1	i) Stockpile or dispose within freehaul distance of 0.5km	m3	4,400	4,736.3	0.0	4,736.3	24.50	116,039.35
	2.9	Engineered fill							
		Import material from commercial sources:							
	2.9.1	1) G5 material to Reservoir base 1000mm compacted to minimum 98% Mod AASHTO density in layers not more than 200mm	m3	2,100	2,728.06	0.00	2,728.06	459.50	1,253,543.57
	2.9.2	2) G7 material to Reservoir base 1000m compacted to minimum 98% Mod AASHTO density in layers not more than 200mm	m3	2,100	2,231.23	0.00	2,231.23	328.30	732,512.81
	2.9.3	Supply and lay geogrid fleximesh or similar geosynthetic materials, to manufacturers requirements	m2	2,100	14022.78	0.00	14022.78	210.01	2,944,924.03
		Total Page 157 5,581,577.19							
		SECTION C: PIPELINE							
		MEDIUM - PRESSURE PIPELINES							
	3.1	Supply, weld, lay, bed, test and disinfect pipes complete with couplings in trenches							
		Grade X42 steel pips to SANS 719, with coating and lining as specified on drawings and specifications							
158	3.1.1	1200NB 10mm wall thickness	m	288	111.6	0.0	111.6	14,700.97	1,640,628.25
		EO PSL 8.2.1 above for Supplying, laying and bending of specials complete with couplings							
		RUNNING TOTAL							15,456,088.51

INTERIM VALUATION OCTOBER 2015.1

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
		a) 1200NB Steel Bends-Bevel ended							
	3.1.5	b) 1200NB x 1200NB Long Radius	no	3	1	0	1	97,804.82	97,804.82
	3.2	Inlet chamber no 1 and 2							
	3.2.1	Item No 1 - Steel pipe grade X42	no	4	2	0	2	115,259.26	230,518.52
		Total Page 158 1,968,851.59							
	3.4	Outlet chamber no 1							
159	3.4.1	Item No 1 - 1200 NB Steel pipe grade X42	no	1	1	0	1	87,949.67	87,949.67
	3.4.3	Item no 3 - DN1200 Steel flange adaptor	no	1	1	0	1	26,223.89	26,223.89
	3.4.4	Item No 4 - 1200 NB Steel pipe grade X42	no	1	1	0	1	80,328.23	80,328.23
	3.5	Scour chamber fittings							
	3.5.1	Item no 1 - 400NB Steel pipe grade X42	no	1	1	0	1	15,919.07	15,919.07
	3.5.2	Item no 2 - DN400 Restrained Steel flange adaptor	no	1	1	0	1	5,431.52	5,431.52
	3.5.3	Item no 3 - 400NB Steel pipe grade X42, 90 degree short	no	1	1	0	1	16,014.45	16,014.45
	3.5.4	Item no 3 - 400NB Steel pipe grade X42, 6mm thick wall	no	1	1	0	1	11,058.73	11,058.73
	3.6	Reservoir inlet fittings							
	3.6.1	Item no 1 - 1500NB x 1200NB Steel Ballmout grade X42	no	1	1	0	1	32,881.34	32,881.34
	3.6.2	Item no 2 - 1200NB Steel Short radius 3 segmented bend gate	no	1	1	0	1	98,312.51	98,312.51
	3.6.3	Item no 3 - 1200NB Steel pipe grade X42	no	1	1	0	1	163,686.83	163,686.83
	3.7	Reservoir outlet fittings							
	3.7.1	Item no 1 - 1500NB x 1200NB Steel Ballmout grade X42	no	1	1	0	1	24,835.54	24,835.54
	3.7.2	Item no 2 - 1200NB Steel Short radius 3 segmented bend gate	no	1	1	0	1	69,886.79	69,886.79
	3.7.3	Item no 3 - 1200NB Steel pipe grade X42	no	2	1	0	1	112,691.39	112,691.39
		Total Page 159 745,211.98							
		RUNNING TOTAL							16,529,623.81

INTERIM VALUATION OCTOBER 2015.1

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
	3.8	Reservoir overflow fitings							
160	3.8.3	Item no 3 - 1200NB Steel pipe grade X42	no	1	1	0	1	47,629.18	47,629.18
	3.8.4	Item no 4 - 1200NB Steel Short radius 3 segmented bend grade	no	1	1	0	1	50,287.52	50,287.52
	3.8.5	Item no 5 - 1200NB Steel pipe grade X42	no	1	1	0	1	98,455.10	98,455.10
	3.9	Scour chamber fittings							
	3.9.1	Item no 1 - 400NB Steel pipe grade X42	no	1	1	0	1	19,501.26	19,501.26
	3.9.2	Item no 2 - 400NB Steel pipe grade X42,	no	1	1	0	1	17,035.80	17,035.80
	3.9.3	Item no 3 - 400NB Steel pipe grade X42, 6mm thick wall	no	6	6	0	6	12,481.28	74,887.68
	3.9.4	Item no 4 - 400NB Steel pipe grade X42,	no	1	1	0	1	18,651.79	18,651.79
	3.9.5	Item no 5 - 400NB Steel pipe grade X42,	no	1	1	0	1	33,414.81	33,414.81
		Total Page 160 359,783.14							
		BEDDING PIPES							
	3.15	Supply of bedding from trench excavations							
161	3.15.2	b) Selected fill material	m3	100	49.104	0.000	49.104	37.19	1,826.18
		Supply of bedding by importation from commercial sources							
	3.15.4	a) Selected granular material	m3	1,016	328	0	328	326.78	104,569.60
	3.16	Stormwater Drainage							
		Supply, lay, etc							
	3.16.1	a) 1050mm ND class 50D	m	50	19.52	0.00	19.52	2,316.33	45,214.78
		Total Page 161 151,610.54							
		SECTION D: STRUCTURES							
		CHAMBERS							
	4.1	Formwork							
162	4.1.1	Rough vertical to exposed faces	m2	300	254.27	0.00	254.27	407.68	103,660.79
	4.1.2	a) Smooth vertical	m2	300	216.23	0.00	216.23	427.77	92,496.71
	4.1.3	b) Smooth horizontal	m2	100	29.65	0.00	29.65	589.90	17,136.69
		RUNNING TOTAL							17,254,811.59

INTERIM VALUATION OCTOBER 2015.1

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
		Formwork to narrow widths up to 300mm wide							
	4.1.4	a) Rough vertical	m	195	122.26	0.00	122.26	224.03	27,389.91
	4.1.5	b) Smooth vertical	m	120	40.13	0.00	40.13	224.03	8,990.32
	4.1.6	Forming rectangular holes in roof slab up to 250mm thick for manhole frames 925mm x 625mm	no	5	3	0	3	563.19	1,689.57
		Casting pipework into walls up to 600mm thick. Wrapping of pipe measured elsewhere							
	4.1.7	a) DN1200 - through inlet and outlet chamber walls	no	7	4	0	4	4,624.81	18,499.24
	4.1.8	b) DN400 - through scour chamber walls	no	2	2	0	2	1,251.39	2,502.78
	4.2	Unformed surface finish							
	4.2.1	a) Wood float to roof slabs	m2	180	158.74	0.00	158.74	17.10	2,680.25
	4.3	Reinforcement							
	4.3.2	High tensile steel bars	t	30	13.82	0.00	13.82	11,455.82	158,319.43
	4.4	Concrete							
	4.4.2	Blinding layer 15mpa/19mm to min 75mm	m2	180	127.59	0.00	127.59	129.83	16,577.99
		Strength concrete							
	4.4.4	Grade 30mpa/19mm Chamber floor slabs	m3	55	37.42	0.00	37.42	1,684.78	63,044.47
	4.4.5	Grade 30mpa/19mm Chamber walls	m3	125	78.84	0.00	78.84	1,694.95	133,629.86
	4.4.6	Grade 30mpa/19mm Chamber roof slabs	m3	17	7.29	0.00	7.29	1,684.78	12,282.95
	4.5	Manufacture and erect precast elements							
	4.5.1	a) Pre-cast planks to inlet Chamber no 1 and 2 roof slabs as shown in drawing H346307-0000-50-035-0001-001	no	26	13	0	13	2,805.73	36,474.49
	4.5.2	b) Pre-cast planks to outlet chamber no 1 roof slabs as shown in drawing H346307-0000-50-035-0004-001	no	9	9	0	9	2,322.49	20,902.41
	4.5.3	b) Pre-cast planks to outlet chamber no 2 roof slabs as shown in drawing H346307-0000-50-035-0002-001	no	5	5	0	5	1,792.49	8,962.45
		RUNNING TOTAL							17,766,256.81

INTERIM VALUATION OCTOBER 2015.1

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
	4.5.4	d) Pre-cast planks to scour chamber roof slabs as shown in drawing H346307-0000-50-035-0003-001	no	3	3	0	3	2,881.42	8,644.26
	4.6	Miscellaneous							
	4.6.2	Supply and install polymer manhole cover and frame - Type 95 "Maverick" or similar approved including locking mechanism all as per typical detail on drawing number H346307-0000-50-035-0001-001	no	6	3	0	3	2,468.35	7,405.05
	4.6.3	Supply lock and keys for above mechanism	no	5	3	0	3	879.68	2,639.04
		Total Page 162 743,827.67							
		Reservoir							
	4.7	**Formwork**							
		Rough to:							
163	4.7.2	Narrow widths (500mm) to wall footing edge, external, circular	m	155	154.88	0.00	154.88	228.05	35,326.38
	4.7.3	Narrow widths (250mm) to wall footing shear key	m	148	146.08	0.00	146.08	186.70	27,273.14
		Smooth to:							
	4.7.4	Vertcal to internal and external wall, circular	m2	3,000	1,768.08	0.00	1,768.08	351.56	621,586.20
	4.7.8	Narrow widths (400mm) to buttress edge	m	103	48	0	48	298.71	14,338.08
	4.7.9	Form recesses in buttress for anchorages as indicated on drawing number: H346307-0000-30-035-0004-001	no	98	64	0	64	238.97	15,294.08
	4.7.10	Narrow widths (1000mm) to scour sump internal	m	10	9	0	9	746.78	6,721.02
		Casting pipework into slab up to 900mm thick. Wrapping of pipe measured elsewhere							
	4.7.13a	a) DN1200 - through reservoir slab	no	3	3	0	3	5,675.59	17,026.77
	4.8	**Reinforcement**							
	4.8.1	Mild steel of all diameters	t	26	0.02	0.00	0.02	11,455.82	229.12
	4.8.2	High tensile steel of all diameters	t	236	154.97	0.00	154.97	11,455.82	1,775,308.43
		RUNNING TOTAL							20,298,642.38

INTERIM VALUATION OCTOBER 2015.1

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
	4.9	Post tensioning							
		By special PT sub-contractor							
	4.9.1	PT design and supply, in accordance with drawing number H345307-0000-30-035-0004-001 including working drawings for Engineer approval, sheathing, stools, anchorages, supply threading and stressing of low relaxation multi-strand, supply of non-shrink grout additive, corrosion inhibitor, grouting pipes and placement of grout (Sika Intraplas-Z and Sikagard 901 admixture or similar approved)	sum	1	0.25	0.00	0.25	1,362,094.61	340,523.65
		By main contractor							
	4.9.2	Placement only by main contractor, including sheathing and anchorages	sum	1	0.7	0.0	0.7	16,198.00	11,338.60
		Total Page 163 2,864,959.47							
	4.1	Concrete							
164	4.10.1	No-fines concrete, 100mm thick including skimmed blinded surface	m3	200	191.42	0.00	191.42	1,981.72	379,340.84
	4.10.2	i) 15Mpa/19mm mass concrete where ordered by the Engineer (provisional)	m3	20	3.44	0.00	3.44	1,541.26	5,302.00
		Prescribed mix concrete 35mpa/19mm (see PSG) to:							
	4.10.5	i) Floor slab	m3	320	312.1	0.0	312.1	1,789.82	558,602.82
	4.10.6	ii) Wall footing	m3	245	241.61	0.00	241.61	1,788.82	432,438.41
	4.10.7	iii) Wall	m3	784	219.6	172.42	392.02	1,789.82	701,645.24
	4.11	Unformed surface finishes							
	4.11.1	Power float finish to floor and wall footing	m2	1,910	1,908.9	0.0	1,908.9	37.70	71,965.53
	4.12	Joints							
		Casting joints complete, including all preparation, material and labour:							
	4.12.1	Floor joint type Fj1	m	300	412.56	0.00	412.56	644.98	266,092.95
		Movement joints complete, including all preparation, material and labour:							
		RUNNING TOTAL							28,865,292.42

INTERIM VALUATION OCTOBER 2015.1

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
	4.12.6	Wall sliding joint type WJS, complete with bearings (double row required at buttress), filler, Sondor fillet, Sika Combiflex, including required preparation	m	149	183.34	0.00	183.34	1,186.09	193,735.94
		Miscellaneous							
	4.12.7	Water barrier, 250 micron DPC below no-fines layer	m3	1,910	1,908.9	0.0	1,908.9	11.65	22,238.69
	4.12.8	Sikaswell "P-2010" swellable joint sealant or similar approved around pipework cast in concrete	m	20	11.50	0.00	11.50	254.96	2,932.04
		Total Page 164 2,634,294.48							
	4.14	Under floor drainage							
		Supply, lay, joint HDPE "Drainex" non-slotted pipes or similar approved							
165	4.14.1	75mm Dia	m	110	101.69	0.00	101.69	69.30	7,047.12
		Supply, lay, joint in no fines conrete layer HDPE "Drainex" slotted pipes or similar approved							
	4.14.2	75mm dia under drain	m	211	344.03	0.00	344.03	72.49	24,938.73
		Extra over 8.2.1 above for the supply, lay and bedding of HDPE "Drainex" type fittings or similar approved							
	4.14.3	75mm dia 90 degree bend	no	2	12.00	0.00	12.00	72.95	875.40
	4.14.6	75mm dia 45degree bend	no	2	8.00	0.00	8.00	72.95	583.60
	4.15	Miscellaneous							
	4.15.4	Drill and grout in Y20 dowels	no	312	58.00	0.00	58.00	39.26	2,277.08
		Total Page 165 35,721.93							
		SECTION F: DAYWORKS							
	5.2	Labour							
166	5.2.3	Unskilled labourers	Hr	600	200.66	0.00	200.66	46.30	8,086.60
		Total Page 166 8,086.60							
	A	MATERIALS ON SITE							
167	D	Fleximesh	m2	0	98.22	0.00	98.22	62.51	6,139.73
		RUNNING TOTAL							23,334,147.35

INTERIM VALUATION OCTOBER 2015.1

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
	E	Reinforcing Supply @ 80% of Quantity	t	0	34.32	0.00	34.32	8,100.00	277,992.00
	F	1200NB 10mm wall thickness 3.1.1	m	0	152.4	0.0	162.4	8,820.00	1,344,168.00
	I	Item no 3 - 800NB Fabricated steel equal tee@60SR	no	0	1.20	0.00	1.20	39,959.89	47,941.87
	L	Item no 8 - 800NB Steel blank flange@60%SR	no	0	1.20	0.00	1.20	35,419.95	42,503.94
	M	Item no 10 - 200 NB x 50NB unequal tee@50%SR	no	0	1.20	0.00	1.20	5,531.49	6,637.79
	N	Item no 12 - DN1200 Steel flange adaptor@60%SR	no	0	1.20	0.00	1.20	27,182.26	32,594.71
	O	Item No 1 - 1200 NB Steel pipe grade X42@60%SR	no	0	0.60	0.00	0.60	58,431.06	35,058.64
	P	Item no 2 - DN1200 Steel flange adaptor@60%SR	no	0	1.20	0.00	1.20	26,223.89	31,468.67
	Q	Item no 3 - 1200NB x 900NB Steel reducer grade X42@60%SR	no	0	1.20	0.00	1.20	24,853.93	29,824.72
	S	Item no 1 - 1500NB x 1200NB Steel Ballmout grade X42@60%SR	no	0	0.60	0.00	0.60	29,601.50	17,760.90
	T	Item no 2 - 1200NB Steel pipe grade X42@60%SR	no	0	0.60	0.00	0.60	163,183.02	97,897.81
	U	c) 1250NB Blank flanges@60%SR	no	0	1.20	0.00	1.20	26,231.19	31,477.43
	V	Supply and install polymer manholes cover and frame - Type 9E "Maverick" or similar approved including locking mechanism all as per typical detail on drawing number H346307-0000-50-035-0001-001@80% Material Rate	no	0	1	0	1	1,448.00	1,448.00
	X	Wall-Roof Bearing	m	0	160	0	160	157.50	25,216.00
	D	VARIATION ITEMS							
	D	SAVING - Supply and lay geogrid flexiimesh or similar geosynthetic materials, to manufacturers requirements	m2	0	-14022.7	0.00	-14022.7	64.21	-900,492.70
	E	Removal of Tree Stumps	No.	0	141	0	141	1,372.00	193,452.00
	F	Rip & Recompact Insitu Material Reservoir		0	2,231.23	0.00	2,231.23	38.00	84,786.74
		RUNNING TOTAL							24,733,873.87

INTERIM VALUATION OCTOBER 2015.1

PAGE	ITEM	DESCRIPTION	UNIT	BILLED	PREVIOUS	PRESENT	TO DATE	RATE	AMOUNT
	G	Rip & Recompact Insitu Material Chambers		0	230	0	230	38.00	8,740.00
	M	Payment Invoice	Sum	0	1	0	1	2,000,000.00	2,000,000.00
	N	Mark-Up on Payment Invoice	Sum	0	0	1	1	200,000.00	200,000.00
	O	Hand Dig	m3	0	0	112.88	112.88	454.35	51,287.03
		Total Page 187 3,665,992.48							
		RUNNING TOTAL							25,994,000.10

COMMISSION OF INQUIRY
INTO STATE CAPTURE

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO NSEZI BALANCING RESERVOIR PROJECT CONTRACTOR: SSO JOINT VENTURE RE: R2 200 000.00 AND R1 923 489.92 IRREGULAR EXPENDITURE

ANNEXURE Q

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

1003B Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
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admin@mhlangainc.co.za

Mhlanga Incorporated
Attention: Mr Mhlanga
1003B Salmon Grove Chambers
407 Anton Lembede Street
Durban, 4001
Fax: (031) 305 7538
Per E-mail: sthembelo@mhlangainc.co.za
4 August 2017

Dear Mr. Mhlanga

MHLATHUZE WATER - HATCH GOBA (PTY) LTD
PROJECT: MW/15/2014

1. We refer to the above matter together with your offices electronic mail dated 19 July 2017 affording our offices an indulgence to formally provide you with information in respect of the above matter. We thank you for the said indulgence.

2. We confirm that we consulted with our client on 20 July 2017 in order to obtain further instructions so as to provide you with the requested information and to record our client's version of events. Having consulted with our client, we are instructed to record the following summary of events:

   2.1 During December 2013, our client ("Hatch") was appointed by Mhlathuze Water to provide professional services to Mhlathuze Water in respect of construction work to be undertaken at the Nsezi Water Treatment Works ("the Project");

   2.2 A formal contract (titled "Standard Form of Agreement for Consulting Engineering Services") was concluded between Hatch and Mhlathuze Water in January 2014. This contract governed the scope of professional consulting engineering services to be provided by Hatch to Mhlathuze Water on the Project, which was defined as "Augmentation of Nsezi Water treatment works and review of associated bulk infrastructure – Work package 3: Construction of a new 20ml pre-stressed reinforced concrete reservoir".

   2.3 Mhlathuze Water duly appointed Stefanutti Stocks ORO Joint Venture ("Stefanutti Stocks") as the construction contractor in respect of the Project;

   2.4 In accordance with its obligations to Mhlathuze Water, Hatch duly performed the role of consulting engineer on the Project. As is the norm in this type of scenario, Hatch has no contractual relationship with the contractor – it merely performs its duties as consulting engineer to the Project in terms of its agreement with the client.

Howes Incorporated Attorneys
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VAT: 4460223391 **Reg No:** 2005/033231/21

2.5 During the course of the Project, Stefanutti Stocks rendered invoices for progress payments, Hatch monitored the work performed and materials used, and signed off on payment certificates, which were then paid by Mhlathuze Water directly to Stefanutti Stocks.

2.6 During late 2015, Hatch and Stefanutti Stocks were instructed to assist Mhlathuze Water by processing a payment to a third party, Isibonelo CC ("Isibonelo"), who had apparently performed work for Mhlathuze Water on a different project and was owed money by Mhlathuze Water.

2.7 The reason provided for the instruction was that Mhlathuze Water's internal budgeting issues had resulted in a delay in payment to Isibonelo. As a temporary workaround, Mhlathuze Water wished to utilize funds allocated to this Project, to pay Isibonelo.

2.8 Acting in good faith, and on the instructions of senior officials at Mhlathuze Water (notably Andile Ngwane, Mhlathuze Water's Project Manager, and Mboniseni Majola, Mhlathuze Water's Program Director), Hatch and Stefanutti Stocks assisted as follows:

2.8.1 Mhlathuze Water provided Hatch with two invoices from Isibonelo, which were approved for payment by Mhlathuze Water (signed by Majola and Ngwane). The first invoice, approved on 2 November 2015, was for the total amount of R2,280 000. The second, approved on 26 January 2016, amounted to R1,993,435.01.

2.8.2 Having been instructed by Mhlathuze Water, Hatch instructed Stefanutti Stocks to pay the Isibonelo invoices;

2.8.3 Stefanutti Stocks duly paid Isibonelo directly, on behalf of Mhlathuze Water;

2.8.4 Stefanutti Stocks added the payments to invoices relating to the Project, together with an agreed 10% markup on the payments made to Isibonelo;

2.8.5 Mhlathuze Water duly paid Stefanutti Stocks, but subsequently queried these payments and withheld payment in respect of later completion certificates.

2.9 Our client did not profit or benefit in any way from the payments to Isibonelo, and merely acted in good faith, on instruction from Mhlathuze Water, and in the best interests of the Client and the project. To the best of our client's knowledge, the only benefit to Stefanutti Stocks was that it charged an agreed 10% markup on the payments to Isibonelo CC, which was approved by Mhlathuze Water. Again, it must be emphasized that the instruction to make these payments came from senior

Howes Incorporated Attorneys
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officials of Mhlathuze Water and our client had no reason to believe that the payment instructions were not legitimate.

3. We trust that the above information assists in your investigations. At this stage it is not practicable to provide affidavits, as the information contained above has been obtained from various individuals and documents, and several of the key persons involved are no longer in the employ of Hatch. However, our client confirms that to the best of its knowledge, the facts set out above are correct.

4. We specifically record that the said information is provided to you in order to assist in your investigations. Our client's rights remain strictly reserved.

5. In the event that you would like to discuss this matter further, kindly contact our offices.

Yours faithfully

Neil Hart
ASSOCIATE: HOWES INCORPORATED ATTORNEYS
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COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE
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REPORT ON THE INVESTIGATION INTO NSEZI BALANCING RESERVOIR PROJECT CONTRACTOR: SSO JOINT VENTURE RE: R2 200 000.00 AND R1 923 489.92 IRREGULAR EXPENDITURE

ANNEXURE R

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

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COMMISSION OF INQUIRY INTO STATE CAPTURE

macgregor·erasmus
ATTORNEYS

8 August 2017

Our Ref: J Schabort/ms – STE9/0029

MHLANGA INCORPORATED
Attention: Mr Mhlanga
sthembelo@mhlangainc.co.za

Dear Sirs

MHLATHUZE WATER – HATCH GOBA (PTY) LTD
PROJECT: MW/15/2014

1. We are instructed on behalf of Stefanutti Stocks ORO Joint Venture in this matter.

2. We refer to the consultation held with your Mr. Mhlanga of Mhlanga Incorporated, the appointed investigator, at the offices of our client in Pinetown on 16 March 2017.

3. We have been requested to provide you with our client's version of events insofar as they relate to two transactions to the value of R2,280,000.00, inclusive of VAT, and R1,993,435.01, inclusive of VAT.

4. An agreement between Hatch Goba (Pty) Ltd ("Hatch") and Mhlathuze Water was entered for the consulting engineering services that would effectively project manage the contract by monitoring the work performed and the materials used and furthermore sign off on payment certificates.

5. Our client was subsequently appointed by Mhlathuze Water as the Contractor for the Project, the construction of a 20ML post tensioned Reservoir.

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Practice No. 5451

6. Our client was instructed by Hatch during the latter part of 2015 to make these two payments to Isibonelo CC ("Isibonelo") and on receipt of the instruction, our client requested Mhlathuze approved invoices before payments could be made.

7. The instructions received by our client from Hatch to make payment to Isibonelo were approved for payment by Mhlathuze Water and authorised by Mboniseni Majola, Mhlathuze Water's Program Director and Andile Ngwana, Mhlathuze Water's Project Manager.

8. Mhlathuze Water has copies of various correspondence where the instructions were formalised.

Please feel free to contact us should you wish to discuss any of the aforesaid information further in order to assist you in your investigations.

Our client's rights remain reserved in their entirety.

Yours faithfully

JACQUES SCHABORT
MACGREGOR ERASMUS ATTORNEYS
electronic transmission therefore unsigned

Email: jacques@meattorneys.co.za
Cell: 072 837 6109

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO NSEZI BALANCING RESERVOIR PROJECT CONTRACTOR: SSO JOINT VENTURE RE: R2 200 000.00 AND R1 923 489.92 IRREGULAR EXPENDITURE

ANNEXURE S

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

1003B Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
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COMMISSION OF INQUIRY INTO STATE CAPTURE

SearchWorks

Unit B4, Arden Grove, Montague Gardens
Tel: +27 86 044 3333, Fax: +27 21 555 3127
Website: http://www.searchworks.co.za

199705162023

Forensic Company Trace

Search Information

Summary	
Search Type	FORENSIC COMPANY TRACE
Search Description	199705162023
Reference	LONDIWE
Date	17/03/2017

Corporation Information

Summary	
Name	ISIBONELO CONSTRUCTION
Type	CLOSE CORPORATION (CC)
Status	IN BUSINESS
Registration Number	1997/051620/23
Registration Date	26/09/1997

Active Member(s)

Member Name	ID Number	Member Status	Appointment Date
ALLISON MBUKENI ZANKWE	6203205948080	ACTIVE	26/09/1997

Resigned Member(s)

Member Name	ID Number	Member Status	Appointment Date
CHONCO ERNEST BUTHELEZI	5311145547085	RESIGNED	26/09/1997
LOUIS ALMERO DU PISANIE	4704295017084	RESIGNED	07/04/2004
PHINEAS DUMISANI MTHEMBU	5604145296086	RESIGNED	26/09/1997
WILSON SIPHO SIMELANE	6008135661087	RESIGNED	26/09/1997

Deceased Member(s)

Member Name	ID Number	Member Status	Appointment Date
No information available.			

Auditor(s)

Auditor Name	Profession Code	Status	Start Date
[illegible]TZE AND PARTNERS	CA	RESIGN	26/09/1997
[illegible] J MITCHELL & ASSOCIATES	CA	CURRENT	

SIGN OF THE TIMES INTO STATE CAPTURE

Detailed Information

Summary

Name	ISIBONELO CONSTRUCTION
Short Name	-
Type	CLOSE CORPORATION (CC)
Tax Number	9279161203
Short Type	(CC)
Registration Number	1997/051620/23
CIPC Company Act Type	CLOSE CORPORATION
Type Date	26/09/1997
Old Registration No.	-
Registration Date	26/09/1997
Translated Name	-
Start Date	26/09/1997
Status	IN BUSINESS
Principal Description	CONSTRUCTION
Status Date	-
Details Withdrawn From Public	-
Standard Industrial Classification	CONSTRUCTION
Financial Year End	FEBRUARY
Financial Effective Date	26/09/1997
Country of Origin	-
Country	-
Authorised Capital	-
Region	KWAZULU-NATAL
Issued Capital	-
Authorised Shares	-
Form Received Date	-
Issued Shares	-
Date on Form	-
Conversion Number	-
Physical Address	SHOP A PROMENADE CENTRE, C\ O LIRA LINK AND TASSELBERRY, RICHARDS BAY, 3900
Postal Address	P O BOX 390, RICHARDS BAY, 3900

Member(s)

Member 1 of 5

Type	MEMBER
Status	RESIGNED
First Name	CHONCO ERNEST
Surname	BUTHELEZI
ID Number	5311145547085
Appointment Date	26/09/1997
Resignation Date	-
Member Contribution	25%
Member Size	25%
Residential Address	J1 412, ESIKHAWINI, 3887
Postal Address	P O BOX 1731, ESIKHAWINI, 3887

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Member(s) (continued)

Member 2 of 5	
Type	MEMBER
Status	RESIGNED
First Name	LOUIS ALMERO
Surname	DU PISANIE
ID Number	4704295017084
Appointment Date	07/04/2004
Resignation Date	25/08/2005
Member Contribution	49%
Member Size	49%
Residential Address	19 MZINGANE WATERFRONT, MEERENSEE, RICHARDS BAY, 3900
Postal Address	P O BOX 1011, RICHARDS BAY, 3900
Member 3 of 5	
Type	MEMBER
Status	RESIGNED
First Name	PHINEAS DUMISANI
Surname	MTHEMBU
ID Number	6604145296086
Appointment Date	26/09/1997
Resignation Date	
Member Contribution	25%
Member Size	25%
Residential Address	MABUYENI FARM, ESIKHAWENI, 3887
Postal Address	P O BOX 2085, RICHARDS BAY, 3900
Member 4 of 5	
Type	MEMBER
Status	RESIGNED
First Name	WILSON SIPHO
Surname	SIMELANE
ID Number	6008135661087
Appointment Date	26/09/1997
Resignation Date	
Member Contribution	25%
Member Size	25%
Residential Address	WORD 6, ROOM 1097, ENSELENI, 0000
Postal Address	P O BOX 1346, ENSELENI, 3886
Member 5 of 5	
Type	MEMBER
Status	ACTIVE
First Name	ALLISON MBUKENI
Surname	ZANKWE
ID Number	6203205948080
Appointment Date	26/09/1997
Resignation Date	30/12/1899
Member Contribution	100%
Member Size	100%
Residential Address	14 DRONGO DOMAIN, BIRDSWOOD, RICHARDS BAY, 3900
Postal Address	P O BOX 9553, RICHARDS BAY, 3900

Auditors(s)

Auditor Name	Profession Code	Start Date	Status
KOTZE AND PARTNERS	CA	26/09/1997	RESIGN
W J MITCHELL & ASSOCIATES	CA		CURRENT

Capital Information

Type	No. of Shares	Parri Value	Cap. Amount	Cap. Premium
No information available.				

Report Information

Date of Information	17/03/2017
Print Date	17/03/2017
Generated By	LONDIWE MHLANGA
Reference	LONDIWE
Report Type	CSI COMPANY DETAILS

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DD34-DCM-537

DM6

2

SOUTH AFRICAN POLICE SERVICE — SUID-AFRIKAANSE POLISIEDIENS

SAPS 3M(a)
SAPD

Part A 1

PREAMBLE TO STATEMENT * AANHEF TOT VERKLARING

Station / Stasie: RICHARDSBAY — CAS no / MAS no: 86 /04/2020

PERSONAL PARTICULARS * PERSOONLIKE BESONDERHEDE

Title / Titel: MR — Initials / Voorletters: M P — Surname / Van: DUZE

First names / Voorname: MTHOKOZISI PIUS DUZE

Identity number / Identiteitsnommer: 7211225321088 — Race / Ras: A/A Br/Br Bl/Sw W/W (A)

Passport number / Paspoortnommer: — Country of issue / Land van uitreiking: RSA

Date of Birth / Geboortedatum: 22/11/1972 — Age / Ouderdom: 47 — Gender / Geslag: M/M F/V

Nationality / Nasionaliteit: RSA — Citizenship / Burgerskap: RSA

I am/am not a member of the SAPS with PERSAL no * Ek is ⁄ is nie lid van die SAPD met PERSAL no: [illegible]

RESIDENTIAL ADDRESS * WOONADRES

Street name / Straatnaam: 13 CORDIA CRESCENT

Building/farm/plot/place / Gebou/plaas/plot/plek:

Suburb/Extension/Area / Voorstad/Uitbreiding/Gebied: UMHLANGA

Town/City / Dorp/Stad: UMHLANGA — Postal Code / Poskode: 4320

Telephone number / Telefoonnommer: Home / Huis Code: No: — Work / Werk Code: 035 No: 9021007

Cellphone number / Selfoon foonnommer: 082 377 0395 — Fax / Faks Code: 035 No: 902 1100

ADDRESS–WORK/BUSINESS/INSTITUTION/ORGANISATION * ADRES–WERK/BESIGHEID/INSTANSIE/ORGANISASIE

Name of Institution/Organisation / Naam van Instansie/Organisasie: MHLATHUZE WATER

Street name / Straatnaam: CNR BATTERY BANK

Building/farm/plot/place / Gebou/plaas/plot/plek: S CENTRAL ARTERIAL

Suburb/Extension/Area / Voorstad/Uitbreiding/Gebied: ALTON

Town/City / Dorp/Stad: RICHARDS BAY — Postal Code / Poskode: 3900

Telephone number / Telefoonnommer: Home / Huis Code: No: — Work / Werk Code: 035 No: 902 1007

Cellphone number / Selfoon foonnommer: 082 377 0395 — Fax / Faks Code: 035 No: 902 1100

Would you like to receive information regarding this case via sms? / Wil u inligting in verband met die saak ontvang per sms? Yes / Ja: X — No / Nee:

CONTACT PERSON (IF APPLICABLE) * KONTAK PERSOON (INDIEN VAN TOEPASSING)

Title / Title: MR — Initials / Voorletters: M P — Surname / Van: DUZE

Telephone number / Telefoonnommer: Home / Huis Code: No: N/A — Work / Werk Code: 035 No: 9021007

2020/08/04

DD34-DCM-538

SOUTH AFRICAN POLICE SERVICE — SUID-AFRIKAANSE POLISIEDIENS

SAPS 3M(b)
SAPD

Part A 1
Deel

STATEMENT * VERKLARING

Station / Stasie: RICHARDS BAY
CAS no / MAS no: 86/07/2020

The following particulars in respect of the offence / incident is supplied:
Die volgende gegewens met betrekking tot die misdryf / voorval word verstrek:

PARTICULARS OF OFFENCE/INCIDENT * BESONDERHEDE VAN MISDRYF/VOORVAL

Date and time of offence/incident / Datum en tyd van misdryf/voorval: C C Y Y M M D D - H H M M
Or / Of — Period: Between / Tydperk: Tussen H H M M on / op
D D M M M M D D and / en H H M M on / op D D M M M M D D
Day of week / Dag van week: Su So | M M | D D | W W | D D | V V | S S

Description of Offence/Incident / Beskrywing van Misdryf/Voorval: FRAUD

Method used/Entrance gained / Metode gebruik/Toegang verkry: FRAUDULENT DOCUMENTS

Type of instrument used / Tipe instrument gebruik: UNKNOWN

SCENE OF CRIME * TONEEL VAN MISDAAD

Between: Name of place / Tussen: Pleknaam

and: Name of place / en: Pleknaam

Or / Of

Str. name / Straatnaam: CORNER OF BATTERY BAY & ENTRY

Building/farm/plot/place / Gebou/plaas/plot/plek: ACTIVE.

Suburb/Extension/Area / Voorstad/Uitbreiding/Gebied: MHLAMTHUZE WATER.

Town/City / Dorp/Stad: RICHARDS BAY

Postal Code / Poskode: 3900

Geographical block no / Geografiese blok no:

Type of premises / Tipe perseel:

07-08-2020
Date/Datum

Signature/Handtekening

In a case of theft of a vehicle the statement must be continued on form SAPS 3M(c).
In a case of theft of a firearm the statement must be continued on form SAPS 3M(d).
In all other cases the statement must be continued on blank folio paper.

In die geval van diefstal van 'n motorvoertuig moet die verklaring op vorm SAPD 3M(c) voortgesit word.
In die geval van diefstal van 'n vuurwapen moet die verklaring op vorm SAPD 3M(d) voortgesit word.
In alle ander sake moet die verklaring op 'n blanko foliopapier voortgesit word.

STATEMENT UNDER OATH

I, the undersigned

MTHOKOZISI PIUS DUZE

Do hereby make oath and say that:

1.

I am an adult male person currently employed by Mhlathuze Water as the Chief Executive Officer with its address at Cnr of South Central Arterial and Battery Bank Roads, Alton, Richards Bay, KwaZulu-Natal.

2.

The facts deposed to herein are within my personal knowledge and best belief true and correct unless the context indicates otherwise.

3.

A Forensic Investigation was conducted by a firm of attorneys, Mhlanga Incorporated and a report thereof was submitted to me. The report revealed acts of fraud and/or money laundering and/or corruption committed by various individuals and companies against Mhlathuze Water. The amounts involved in the alleged crime are **R2 394 000.00, R917 940.54, R913 513.92** and **R930 241.02.**

2020-04-08

R4 243 095 07

In a summary, the offence was committed in the following manner:

4.1 Isibonelo Construction CC with registration numbers 1997/051620/23 ("Isibonelo"), a company with no contract with Mhlathuze Water, issued two (2) invoices for **R2 394 000.00, R917 940.54, R913 513.92** and **R930 241.02** to Afrostructures (Pty) Ltd (1995/003404/07) and/or Klomac CC (1985/002453/23).

4.2 Afrostructures and Klomac, were the two (2) contractors appointed to do the construction work for Mhlathuze Water in the CoU High Lift Pumpstation, project number MW/18/2013 incorporating MW/13/2013.

4.3 Afrostructures paid the **R2 394 000.00, R917 940.54, R913 513.92** and **R930 241.02** to Isibonelo.

4.4 Afrostructures claimed payment of the monies it paid to Isibonelo from Mhlathuze Water as if it was due to additional work done by them on site, a Variation Order ("VO"). They also added 10% mark-up on their claim;

4.5 Aecom (Pty) Ltd (1966/006628/07) who were the Consulting Engineers supervising Afrostructures and Klomac on site on behalf of Mhlathuze Water approved payment of the VO by Afrostructures as if Afrostructures had done additional work on site to the value of those two amounts plus 10% mark-up;

2020-04-08

4.6 Mr Mboniseni Majola and Ms Andile Ngwane who were employed by Mhlathuze Water as Program and Project Managers respectively authorized payment of the VOs to Afrostructures;

4.6 Mr Sibusiso Makhanya was the CEO of Mhlathuze Water at the time and he, similarly, authorized the payment of both amounts;

4.6 All the people involved in this crime knew that Isibonelo's invoices were fraudulent because Isibonelo did not do any work to deserve any payment. They also knew that Afrostructures had done no additional work to claim the money back from Mhlathuze Water by way of a VO.

5.

In terms of the Public Finance Management Act 1 of 1999, I am required to report any criminal conduct which is brought to my attention to the Police, hence this statement.

6.

The people and companies implicated in the commission of this crime are the following:

6.1 MR SIBUSISO MAKHANYA, ID NUMBER 710521 5363 086;

6.2 MR MBONISENI MAJOLA, ID NUMBER 750815 5415 081;

6.3 MS ANDILE NGWANE, ID NUMBER 761124 0326 089;

6.4 AFROSTRUCTURES;

2020-04-08

6.5 ANY OF THE DIRECTORS OF AFROSTRUCTURES;

6.6 KLOMAC;

6.7 ANY OF THE DIRECTORS OF KLOMAC;

6.8 AECOM;

6.9 ANY OF THE DIRECTORS OF AECOM;

6.10 ISIBONELO CONSTRUCTION (PTY) LTD; and

6.11 ALLISON MBUKENI ZAKWE (sole director of Isibonelo Construction).

7.

I request the police to investigate this matter further and take all steps necessary to bring the perpetrators to book. A copy of the Forensic Report is attached hereto marked **"A"**.

DEPONENT

I hereby certify that the Deponent has acknowledged that he knows and understands the contents of this Affidavit that was duly sworn to and signed at **RICHARDS BAY** before me on this the **8TH** day of **APRIL 2020**, the Regulations contained in Government Notices Nos. R1258 of the 21st July 1972 and R1648 of the 16th August 1977, as amended, having been complied with.

COMMISSIONER OF OATHS

2020-04-08

"A"

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: AECOM; PROJECT CONSTRACTORS: AFROSTRUCTURES & KLOMAC; SUB-CONTRACTORS: MDIMA CIVILS: PROJECT NAME: COU HIGHLIFT PUMPSTATION; AMOUNT: R2 100 000.00 (VO 008), R1 662 604.30 (VO 016), R2 053 066.72 (VO 020)

MAY 2019

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

1003B Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
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admin@mhlangainc.co.za

RECEIVED
LEGAL DEPARTMENT
DATE: 14/05/2019
SD Chutse

MHLATHUZE WATER & SANS

REPORT ON THE INVESTIGATION INTO IRREGULAR FRUITLESS & WASTEFUL EXPENDITURE

CONSULTING ENGINEER	: AECOM
PROJECT CONTRACTOR	: AFROSTRUCTURES/KLOMAC
SUB-CONTRACTOR	: MDIMA CIVILS
PROJECT NAME	: COU HIGHLIFT PUMPSTATION
AMOUNT	: R 2 100 000-00 (VO 008)
	: R 1 622 604-30 (VO 016)
	: R 2 053 066-72 (VO 020)

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER • AMANZI

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12. THE ROLE OF AFROSTRUCTURES
13. THE ROLE OF KLOMAC
14. THE ROLE OF MDIMA CIVILS
15. SIBUSISO MAKHANYA
16. MBONISENI MAJOLA & ANDILE NGWANE
17. CONCLUSSION

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER • AMANZI

1. DISTRIBUTION LIST

This report is confidential and is to be distributed only to the following persons, unless specific permission is granted by the Chief Executive of Mhlathuze Water.

NO	NAME	INSTITUTION	DESIGNATION	NUMBER OF COPIES
1.	Mr M P Duze	Mhlathuze Water	Chief Executive Officer	1

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER

2. ANNEXURES

The following annexures have been attached and should be read together with this report:

ANNEXURE REFERANCE	DETAILS
ANNEXURE 'A'	Letter of appointment for **AFROSTRUCTURES**
ANNEXURE 'B'	Letter of appointment for **KLOMAC**
ANNEXURE 'C'	Letter of appointment for **MDIMA CIVILS** from **KLOMAC** dated 19/02/2014
ANNEXURE 'D'	Email exchange between K Sparks, Mboniseni Majola, Mark Freeman and Andile Ngwane dated 22/01/2015
ANNEXURE 'E'	Tax invoice number ISB032 from Isibonelo Construction addressed to **KLOMAC** dated 15/01/15
ANNEXURE 'F'	Variation Order number 008 dated 24/01/2015
ANNEXURE 'G'	Site instruction number: **SI/NCOMHLP/075** dated 26/01/2015

ANNEXURE 'H'	Tax invoice number ISB0897 FROM Isibonelo Construction addressed to **AFROSTRUCTURES** dated 24/06/2015
ANNEXURE 'I'	Tax invoice number ISB0899 FROM Isibonelo Construction addressed to **AFROSTRUCTURES** dated 24/06/2015
ANNEXURE 'J'	Variation Order number 016 dated 29/06/2015
ANNEXURE 'K'	Site instruction number: **SI/NCOMHLP/110** dated 30/06/2015
ANNEXURE 'L'	Statement of account from **KLOMAC** dated 30/06/2015
ANNEXURE 'M'	Tax invoice number ISB07987 from Isibonelo Construction addressed to **MDIMA CIVILS** dated 29/09/15
ANNEXURE 'N'	Variation Order number 020 dated 13/10/2015
ANNEXURE 'P'	Remittance advice with a schedule of Variation Orders claimed and paid to **AFROSTRUCTURES.**
ANNEXURE 'Q'	MW Delegation of Authority Policy dated 20/05/2015

MHLATHUZE WATER

3. KEY PERSONS

NO	NAME	DESIGNATION	ABBREVIATION
1.	MBONISENI MAJOLA	FORMER PROGRAM MANAGER: MW	MR MAJOLA
2.	MARK FREEMAN	DIRECTOR: KLOAMC	MR FREEMAN
3.	HENNIE VAN STADEN	ENGINEER: AECOM	MR VAN STADEN
4.	RICHARD LONG	DIRECTOR: AFROSTRUCTURES)	MR LONG
5.	HENNIE VAN STADEN	ENGINEER: AECOM	MR VAN STADEN
6.	NAUFAL KHAN	ENGINEER: AECOM	MR KHAN
7.	KELVIN SPARKS	ENGINEER: AECOM	MR SPARKS
8.	ANDILE NGWANE	FORMER PROJECT MANAGER: MW	MS NGWANE

9.	SIMPHIWE XULU	FORMER COO: MW	MS XULU
10.	S MAKHANYA	FORMER CEO: MW	MR MAKHANYA
11.	M P DUZE	CEO: MW	MR DUZE
12.	XOLANI SHANGE	DIRECTOR: MDIMA CIVILS	MR SHANGE
13.	F VAN VIARNEN	GM: KLOMAC	MR VN VIARNEN
14.	SYDNEY PATON	CONTRACTS MANAGER: KLOMAC	MR PATON
15.	TRACY GETHING	FINANCE MANAGER: KLOMAC	MS GETHING

4. ABBREVIATIONS

FULL NAME	ABREVIATION
ACCOUNTING OFFICER	AO
CHIEF EXECUTIVE OFFICER	CEO
CHIEF OPERATIONS OFFICER	COO
CONSTRUCTION INDUSTRY DEVELOPMENT BOARD	CIDB
DELEGATION OF AUTHORITY POLICY	DOA
GENERAL CONDITIONS OF CONTRACT, 2010, 2ND EDITION	GCC
MHLATHUZE WATER	MW
PUBLIC FINANCE MANGEMENT ACT	PFMA
PREVENTION OF ORGANIZED CRIME ACT	POCA
VARIATION ORDER	VO

MHLATHUZE WATER

5. APPLICABLE LEGISLATION AND INTERPRETATION

5.1 Public Finance Management Act 1 of 1999 (PFMA)

(i) Responsibilities of an Accounting Officer of a Public Entity

5.1.1 Section 83(3) provides that an Official of a Public Entity to whom a power or duty is assigned in terms of section 56 commits an act of Financial Misconduct if that Official willfully or negligently fails to exercise that power or perform that duty.

5.1.2 Section 83(4) provides that Financial Misconduct is a ground for dismissal or suspension of, or other sanction against, a member or person referred to in subsection (2) or (3) despite any other legislation.

5.1.3 Section 86(1) provides that an Accounting Officer is guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding five years if that Accounting Officer willfully or in grossly negligent way fails to comply with a provision of Section 38, 39 or 40.

COMMISSION OF INQUIRY INTO STATE CAPTURE

(ii) Responsibilities of an Official in a Public Entity

5.1.4 Section 57 provides that an official in a public entity must ensure that the system of Financial Management and Internal Control established for that public entity is carried out within the area of responsibility of that official.

5.1.5 An official in a Public Entity is furthermore responsible for the effective, efficient, economical and transparent use of financial and other resources within that official's area of responsibility.

5.1.6 An official in a Public Entity must take effective and appropriate steps to prevent, within that official's area of responsibility, any irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue due.

5.1.7 An official in a Public Entity must comply with the provisions of this Act to an extent applicable to that official, including any delegations and instructions in terms of Section 56(3).

MHLATHUZE WATER

5.2 Treasury Regulations Promulgated under PFMA

5.2.1 Clause 8.1.1 of the Treasury Regulations provides that the Accounting Officer of an institution must ensure that internal procedure and internal control measures are in place for payment approval and processing.

5.2.2 Clause 9.1.1 of the Treasury Regulations provides that the Accounting Officer must exercise all reasonable care to prevent and detect unauthorized, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of Financial and Risk Management.

5.3 Prevention of Organised Crime Act No.121 of 1998 ('POCA)

5.3.1 The general money laundering offences are committed when certain acts are performed in respect of the "proceeds of unlawful activities". This phrase is defined in section 1 of POCA as any property or any service, advantage, benefit or reward which was derived, received or retained in connection with or as a result of any unlawful activity carried on by any person. In addition, the definition makes it clear that the proceeds could have been derived, directly or indirectly, in South Africa

or elsewhere, at any time before or after the commencement of POCA and that it includes any property representing such property.

5.3.2 "**Property**" is defined broadly as money or any other movable, immovable, corporeal or incorporeal thing. It also includes any rights, privileges, claims, securities and any interest in, and all proceeds of, such property.

5.3.3 "**Unlawful activity**" is any conduct which constitutes a crime or which contravenes any law irrespective of whether or not such conduct occurred before or after the commencement of POCA and whether it occurred in South Africa or elsewhere.

5.3.4 **POCA creates three main general money laundering offences:**

5.3.4.1 Firstly, a person who knows or ought reasonably to have known that property is or forms part of the proceeds of unlawful activities, commits an offence in terms of section 4 if he enters into any agreement, arrangement or transaction (whether legally enforceable or not) in connection with the property; or performs any other act in connection with the property, which has the effect or is likely to have the effect:

5.3.4.2 Of concealing or disguising the nature, source, location, disposition or movement of the property or the ownership of the property or any interest in the property; OR

5.3.4.3 Of enabling or assisting any person who committed an offence to avoid prosecution or to remove or diminish any property acquired as a result of an offence.

5.3.4.4 Secondly, a person commits an offence in terms of section 5 if he knows or ought reasonably to have known that another person has obtained the proceeds of unlawful activities and enters into any transaction, agreement or arrangement in terms of which:

5.3.4.5 The retention or control by or on behalf of that other person of the proceeds of unlawful activity is facilitated; or

5.3.4.6 The proceeds are used to make funds available to that person, to acquire property on his behalf, or to benefit him in any other way. Thirdly, a person who acquires, uses or possesses property and who knows or ought reasonably to have known that it is or forms part of the proceeds of unlawful

activities of another person, commits an offence under section 6.

5.3.4.7 The offences under sections 4, 5 and 6 can only be committed by a person who knows or ought reasonably to have known that the property concerned constituted the proceeds of unlawful activities

5.4 Construction Industry Development Board Act No. 32 of 2000 (CIDB Act)

5.4.1 Section 5 of the CIDB Act empowers the CIDB to establish a Code of Conduct for all construction related procurements and all participants involved in the procurement process.

5.4.2 Section 27 of the CIDB Act provides that the Code of Conduct applies to all construction-related procurement and all participants involved in the procurement processes, from the application for registration as a contractor, through to the tender process and the registration and completion of a project, including participation in the best practice project assessment scheme and the best practice contractor recognition scheme.

5.4.3 Section 28 of the CIDB Act empowers the CIDB to investigate any complaint by any person who is aggrieved by an action or omission in terms of the Code of Conduct.

5.4.4 Section 29 provides that the CIDB can institute a formal enquiry against any party found to have breached its Code after satisfying themselves of the investigation mentioned in section 28.

5.5 Code of Conduct for all Parties Engaged in Construction Procurement (CIDB Code of Conduct)

5.5.1 In terms of the CIDB Code of Conduct promulgated in terms of section 5 of the CIDB Act all parties engaged in construction procurement should in their dealings with each other:

5.5.1.1.1 behave equitably, honestly and transparently;

5.5.1.2 discharge duties and obligations timeously and with integrity;

5.5.1.3 Comply with all applicable legislation and associated regulations, etc.

5.5.2 The Code obliges the Agent (Consultant) to strictly observe the Code of Conduct laid down by the body governing his profession.

5.5.3 The Code provides that the contractor shall:-

5.5.3.1 Undertake the contract with the objective of satisfying the requirements of the employer by observing the spirit, as well as complying with the letter of the contract, in pursuit of this objective; cooperate with all the other parties in the procurement process.

5.5.3.2 Not to engage in unfair or unethical practices in dealings with subcontractors.

5.5.3.3 Not to make spurious claims for additional payment or time.

5.5.3.4 Not to engage in collusive practices that has direct adverse impacts on the cost of the project for the employer.

5.6 **National Society of Professional Engineers: Code and Ethics for Engineers.**

5.6.1 The code of ethics for engineers prohibits engineers from aiding or abating the unlawful practice of engineering by a person or a firm.

5.6.2 The code further obliges engineers having knowledge of any violation of the code to report same to the appropriate professional bodies and when relevant also to public authorities and cooperate with the proper authorities in furnishing such information or assistance as may be required.

5.6.3 Engineers shall not permit the use of their name or associate in business ventures with any person or firm that they believe is engaged in fraudulent or dishonest enterprise.

5.7 **Delegation of Authority Policy**

5.7.1 Clause 7.2 of the Delegations Policy of 20 May 2015 provides that a purchase order variation for operation and capital expenditure can only be signed and or authorized in the following respect:

(i) Above R1m by CEO;

(ii) Less than R1m by Heads of Departments.

5.8 The General Conditions of Contract

5.8.1 **Clause 3.2.1** of the GCC provides that the function of the Employer's Agent is to administer the contract as agent of the employer, in accordance with the provisions of the contract.

5.8.2 **Clause 3.2.3** of the GCC envisages that in the event of the Employer's Agent being required in terms of his appointment by the Employer to obtain the specific approval of the Employer for carrying out any part of his functions or duties, such requirement shall be set out in the Contract Data.

5.8.3 **Clause1.1.1.8** defines "Contract Data" as a document that sets out the specific data which together with the general conditions of contract collectively describe the risks, liabilities and obligations of the contracting parties and the procedures for the administration of the contract.

5.8.4 **Clause 13** reads as follows each Variation Order may include:

(i) changes to the quantities of any item of work included in the Contract (however, such changes do not necessarily constitute a Variation),

(ii) Changes to the quality and other characteristics of any item of work,

(iii) changes to the levels, positions and/or dimensions of any part of the Works,

(iv) Omission of any work unless it is to be carried out by others,

(v) Any additional work, Plant, Materials or services necessary for the Permanent Works, including any associated Tests on Completion, boreholes and other testing and exploratory work, or

(vi) Changes to the sequence or timing of the execution of the Works. The Contractor shall not make any alteration and/or modification of the Permanent Works, unless and until the Engineer instructs or approves a Variation.

MHLATHUZE WATER

6. EXECUTIVE SUMMARY

6.1 Background and Investigation Scope

6.1.1 Mhlathuze Water was presented with qualified audit findings by the office of the auditor general in respect of various transactions for the financial year of 2016/2017.

6.1.2 Amongst the transactions which the office of the Auditor General made adverse findings against Mhlathuze Water pertained to payments that were made to **AFROSTRUCTURES**, **KLOMAC** and **MDIMA CIVILS.**

6.1.3 The payments were made under contract number MW/18/2013 and MW/13/2018 pertaining to the COU High-Lift Pump Station project.

6.1.4 Mhlathuze Water appointed Mhlanga Incorporated to conduct an investigation to establish whether the payments amounted to irregular, unauthorized fruitless and wasteful expenditure.

6.1.5 The following contract numbers formed part of the investigation:

(a) MW/13/2013

(b) MW/18/2013

6.1.6 We have established that the tendering process which saw the appointment of ALL service providers in this process was flawed. The BEC and BAC were misled by Miss A Ngwane in the appointment of service providers.

6.1.7 We have further established that sub-contractors were imposed by MW to the contractors and were paid directly by MW.

6.1.8 We found that Isibonelo Construction, a none party to the project submitted various invoices to MW. Miss A Ngwane and Mr M Majola signed the invoices to recommend and approve respectively. The invoices were forwarded to the service providers **(AFROSTRUCTURES, KLOMAC AND MDIMA CIVILS)** to pay Isibonelo. The service providers paid Isibonelo's invoices and claimed back their money from MW as Variation Orders plus a 1% mark-up or handling fee.

6.1.9 The Variation Orders were signed by **AECOM** as the Consulting Engineers, Miss A Ngwane and Mr M Majola of MW as recommender and approver respectively. The VOs were paid by MW.

6.1.10 Our findings are that:-

6.1.10.1 The invoices from Isibonelo were fraudulent;

6.1.10.2 The request for payment of Isibonelo's invoices by MW officials was in perpetuation of fraud;

6.1.10.3 The payment of Isibonelo's invoices by **AFROSTRUCTURES, KLOMAC AND MDIMA CIVILS** was fraudulent;

6.1.10.4 The claiming of the monies paid to Isibonelo by **AFROSTRUCTURES, KLOMAC AND MDIMA CIVILS** as VOs was a fraud;

6.1.10.5 The approval of the VOs by **AECOM** and MW officials was similarly a fraud;

6.1.10.6 The payment of these VOs by MW was fraudulent, and amounted to unauthorized, irregular, fruitless and wasteful expenditure; and

6.1.10.7 That Mr Makhanya as the CEO of MW at the time committed financial misconduct by allowing these payments to go through.

6.1.11 We recommend that:-

6.1.11.1 This matter be reported to the SAPS for a criminal investigation;

6.1.11.2 **AECOM**, A Ngwane and M Majola be reported to the Engineering body for disciplinary action to be taken against them;

6.1.11.3 **AECOM, AFROSTRUCTURES, KLOMAC AND MDIMA CIVILS** be reported to National Treasury to be blacklisted from doing any future work with the State;

6.1.11.4 **AFROSTRUCTURES, KLOMAC AND MDIMA CIVILS** be reported to the CIDB for disciplinary action to be taken against them; and

6.1.11.5 Subject to the Provisions of the Prescription Act, MW must institute civil action to recover monies paid in this transaction from all the service providers and officials of MW jointly and severally the one paying the other to be resolved.

MHLATHUZE WATER

7. OBJECTIVES OF THE INVESTIGATION

7.1 To identify any possible fraud, corruption or any other crime or any unlawful and unethical conduct that may be associated with the commission or any omission in these transactions;

7.2 To establish whether the payments of amounted to irregular, unauthorized, fruitless and wasteful expenditure;

7.3 To establish if Mhlathuze Water received value for money when the Variation Orders were approved and paid.

7.4 To ascertain the actual prejudice or potential prejudice that may have been suffered by Mhlathuze Water as a result of its payment of these Variation Orders.

7.5 To identify any possible irregularities in the processing, approval and payment of these Variation Orders.

7.6 To ascertain if indeed **KLOMC**, **MDIMA CIVILS** and **AFROSTRUCTURES** performed additional work warranting the Variation Orders and subsequent payments.

7.7 To identity all persons involved in the approval and payment of the Variation Order.

7.8 To determine weaknesses in the internal systems and controls and in procedure of approving variation orders in Mhlathuze Water.

7.9 To recommend to the CE options of remedial action or consequence management to prevent the recurrence of similar irregularities or breaches of internal systems in approving Variation Orders.

MHLATHUZE WATER

8. PROCEDURES PERFORMED

8.1 We obtained an understanding of the policies and procedures of Mhlathuze Water as well as the relevant legislation applicable to Mhlathuze Water.

8.2 We conducted interviews with the engineers at **AECOM** the duly appointed consulting engineer in the project.

8.3 We further conducted interviews with directors from **AFROSTRUCTURES**, **KLOMAC** and **MDIMA CIVILS**. During our interviews we extended an opportunity for the involved entities to depose to affidavit or statement and or provide any documents at their disposal which might assist this investigation.

8.4 We obtained emails, invoices and version of events on how the Variation Orders arose.

8.5 We obtained and perused the following documents regarding this matter under investigation:-

(a) Letter of appointment for **AFROSTRUCTURES**. Annexure A

(b) Letter of appointment for **KLOMAC**. Annexure B

(c) Letter of appointment for **MDIMA CIVILS** from **KLOMAC**. Annexure C

(d) Email exchange between K Sparks, Mboniseni Majola, Mark Freeman and Andile Ngwane dated 22/01/2015. Annexure D

(e) Tax invoice number ISB032 from Isibonelo Construction addressed to **KLOMAC** dated 15/01/2015. Annexure E

(f) Variation Order number dated 008 dated 24/01/2015. Annexure F

(g) Site instruction number: **SI/NCOMHLP/075** dated 26/01/2015. Annexure G

(h) Tax Invoice number ISB0897 from Isibonelo Construction addressed to **AFROSTRUCTURES** dated 24/06/2015. Annexure H

(i) Tax invoice number ISB0899 from Isibonelo Construction addressed to **AFROSTRUCTURES** dated 24/06/2015. Annexure I

(j) Variation Order number 016 dated 29/06/2015. Annexure J

(k) Site instruction number **SI/NCOMHLP/110** dated 30/06/2015. Annexure K

(l) Statement of Account from **KLOMAC** dated 30/06/15.[Annexure L]

(m)Tax Invoice number ISB07987 from Isibonelo Construction addressed to **MDIMA CIVILS** dated 29/09/2015.[Annexure M]

(n) Variation Order number 020 dated 13/10/2015.[Annexure N]

(o) Remittance Advice with a schedule of Variation Orders claimed and paid to **AFROSTRUCTURES.** [Annexure O]

(p) Mhlathuze Water's Delegation of Authority Policy dated 20 May 2015.[Annexure P]

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER

9. RESTRICTIONS AND LIMITATION

9.1 We draw your attention to the following limitations inherent in this report.

9.1.1 Our report does not constitute a forensic investigation or an audit made in terms of relevant national standards or practices.

9.1.2 The scope of our work was limited to the instruction of establishing the source of Variation Orders, the analysis of invoices as well as all the documents we discovered during the course of the investigation including establishing whether the payment of the Variation Orders amounted to irregular, unauthorized, fruitless and wasteful expenditure.

9.1.3 Miss Xulu, Miss A Ngwane and Mr. Majola are no longer employees of Mhlathuze Water therefore our investigation does not include their versions despite the fact that the instruction to pay the invoice of Isibonelo Construction had been done with their approval as discernible from the email exchanges.

9.1.4 Our reports contain references to legal positions and legislation. We are assessing the evidence and assimilating the law into the facts as

we find them and thus providing a legal opinion as part of our report and the findings thereto.

9.1.5 We were unable to subpoena bank records of Isibonelo Construction which might have shed light on the persons or entities that may have had a direct or indirect benefit in the payment of Isibonelo Construction and the subsequent approval and payment of the variation orders to **KLOMAC, AFROSTRUCTURES** and **MDIMA CIVILS**. The powers to subpoena the relevant information are held by the law enforcement agencies of the Republic of South Africa.

MHLATHUZE WATER

10. DETAILED FINDINGS AND RECOMMENDATIONS

10.1 **AECOM** was appointed to render professional services as the Consulting Engineers for the "City of uMhlathuze Highlift Pumpstation" (hereafter referred to as "The Project").

10.2 **AFROSTRUCTURES** was contracted for the installations of structural and civil aspects of the project. **AFROSTRUCTURES** were originally appointed as the main contractor of the project. We propose not to deal with that finding in this report as findings on the appointment of contractors in this project is dealt with at length in another related report. Annexure A

10.3 **KLOMAC** was appointed for the mechanical and electrical aspects of the contract. During the tendering stage **KLOMAC**'s contract was advertised as a sub-contract to the contract where **AFROSTRUCTURES** was successful in its bid. The end result is that **KLOMAC** was appointed as an independent contractor for the mechanical and electrical aspects of the project. Annexure B

10.4 **MDIMA CIVILS** was sub-contracted to **KLOMAC**. **MDIMA CIVILS** was subcontracted for about 40% of **KLOMAC**'s contract price. **MDIMA**

CIVILS's appointment was subject to MW making direct payments to it despite the fact that **MDIMA CIVILS** was a subcontractor and its payments ought to have been made by **KLOMAC**. Annexure C

10.5 Our investigation established that **AFROSTRUCTURES**, **KLOMAC** and **MDIMA CIVILS** have paid Isibonelo Construction on instruction of Mr. Majola and Miss Ngwane. The payment of this external contractor was reclaimed by the contractors as a Variation Order. The Variation Orders were approved and signed by both Mhlathuze Water officials and engineers from **AECOM**. Annexure F, J & N

10.6 We have found that these payments to Isibonelo Construction have been a usual occurrence in various projects. We have established from previous investigations for starters that Isibonelo Construction has never rendered any service to MW or contracted to any project by MW.

10.7 We have further established that the *modus operandi* utilized by Mr. Majola and Miss Ngwane is that the contractors must pay the invoices of Isibonelo Construction on behalf of MW. The reason that is always given for this unusual, unlawful and irregular request is that the funds where Isibonelo Construction has been contracted are depleted.

10.8 The invoices submitted by Isibonelo Construction are first and foremost fraudulent. The fraud is further perpetuated by Mr Majola and Miss

Ngwane when they inform the contractors that Isibonelo Construction is contracted to MW when clearly that is not true. The misrepresentations are exacerbated by the fact that the officials of MW misrepresent that invoice presented by Isibonelo Construction are due and payable when they are not.

10.9 On 15 January 2015 an invoice from Isibonelo Construction was presented to MW. The invoice is addressed to Mr. Mark Freeman of **KLOMAC**. The invoice was then recommended and approved by Miss Ngwane and Mr. Majola respectively. Annexure E

10.10 The effect of the signatures from both Miss Ngwane and Mr. Majola in their capacities as Project Manager and Programme Manager respectively is that Isibonelo Construction has carried work for MW and that the invoice is due and payable by MW.

10.11 We perused the invoice submitted by Isibonelo Construction. The peculiar aspects of the invoice include the addressee of the invoice or put differently the customer is listed as **KLOMAC** for the attention of Mr. Freeman of **KLOMAC**.

10.12 On 22 January 2015 Mr Majola confirms the discussion he held with Mr Freeman at 14h35 on the same day. Mr. Majola effectively confirms that **KLOMAC** is to pay the invoice submitted by Isibonelo Construction. He goes on further to instruct that a Variation Order should be prepared in lieu of the invoice to be paid to Isibonelo Construction by **KLOMAC**. Annexure D

10.13 This instruction is given to Mr. K Sparks from **AECOM**; the consulting engineer in the project. The email is copied to Miss A Ngwane and Mr M Freeman. Annexure D

10.14 Mr. Sparks from **AECOM** effectively does not ask any questions other than details of the contractor to be paid by **AECOM** as well as the amount of the VO.

10.15 **AECOM** as per Mr. K Sparks confirmed during interviews held with Mhlanga Incorporated that an instruction came from Mhlathuze Water officials to wit Mr. Majola and Miss Ngwane. Mr. K Sparks painted a vivid picture on how Mr. Majola and Miss Ngwane will issue these instructions and if their instructions were defied they would not take that kindly. In one instance Mr. Majola informed officials from **AECOM** that if they are not willing to comply with instruction he is prepared to deal directly with

the CEO and report the engineers. We can accept as a fact that the invoice from Isibonelo was paid by **KLOMAC** to Isibonelo.

10.16 On 26 January 2015 **AECOM** prepared a site instruction which was signed by Mr. N Khan for the payment of the invoice. The site instruction was given to **KLOMAC** in accordance with the tenure of the invoice prepared and issued by Isibonelo Construction. Annexure G

10.17 VO number 008 was prepared and signed by **AECOM** on 24 January 2015. It was signed by Mr. Majola on 23 January 2015. **KLOMAC** signed the VO on the 24 January 2015. Annexure F

10.18 In terms of the General Conditions of Contract the consequences of the Variation Order are that it is payable on presentation with the next payment certificate. We can accept as a fact that the VO was paid by MW to **KLOMAC**.

10.19 On 24 June 2015 Isibonelo Construction issued tax invoice number ISB0897 for R917 940-54 addressed to **AFROSTRUCTURES**. On the same date tax invoice number ISB0899 from Isibonelo Construction was issued and addressed to **KLOMAC**. The invoice was for an amount R913 513-92. Annexure H & I

10.20 We were not privy to the discussions that preceded the submission of the invoices to the contractors by Isibonelo Construction. We can however conclude that it was accepted now as a norm that invoices of Isibonelo Construction will be paid by contractors and the contractors will claim the money back as a variation order.

10.21 **AECOM** prepared VO number 016 and signed the same VO on 29 June 2015. The VO is self-explanatory **KLOMAC** and **AFROSTRUCTURES** were to pay the respective invoices and claim the amounts as a VO with an additional mark up of 1% which is referred to as a handling fee on the VO. Annexure J

10.22 The VO was signed by Mr. Majola of MW on 30 June 2015. We were unable to ascertain as to who accepted the VO on behalf of the two contractors save to conclude that the contractors acted in concert in the transaction.

10.23 On 30 June 2015, **AECOM** issued a site instruction number **SI/NCOMHLP/110** which was the covering letter to the VO. The site instruction confirms that the payment to Isibonelo Construction was made in accordance with the request made by MW. The VO was to be claimed under the contingencies section of the BOQ. Annexure K

10.24 On 29 September 2015 Isibonelo Construction issued tax invoice number ISB07987 for an amount of R930 241-02. The invoice was addressed to **MDIMA CIVILS**. Annexure M

10.25 On 13 October 2015 **AECOM** prepared VO number 020. The VO was for an amount of R2 053 065-72. Amongst the items claimed on the VO as additional work is the payment of the invoice made by **MDIMA CIVILS** to Isibonelo Construction. Annexure N

10.26 The VO was made under site instruction number **SI/NCOMHLP/123** as endorsed on the VO. At the time of concluding this report we were unable to locate the covering letter of the VO.

10.27 In light of the above we have found during the course of our investigation that MW made payments of fraudulent Variation Order claims to the amount of R4 546 765-21. This amount paid is in respect of Variation Orders that we have investigated during the course of our investigation there may still be more VO's paid under the same or similar circumstances.

10.28 We will proceed to make our findings and recommendation in accordance with each role player in these fraudulent transactions.

11. THE ROLE OF AECOM

11.1 **AECOM** were told of the reasons why the invoices were sent to contractors for payment. The reason is that MW had no funds to meet its obligations with Isibonelo Construction.

11.2 **AECOM** agreed to issue the Variation Orders without any hesitation. **AECOM** would have known that a Variation Order pertains to actual work done by the contractor which was not part of the original scope of works.

11.3 Irrespective of the reason advanced by MW, **AECOM** should have known that the preparation of the Variation Orders was in furtherance of a fraudulent transaction. The defense of being ignorant to the real reason of the invoice is not available to **AECOM**. This conclusion is reached on the basis that a high standard of ethics is expected from **AECOM** and their decision to accede to this unusual request without question falls way short of that standard.

11.4 Effectively it was **AECOM** that instructed contractors to pay the invoices as the Consulting Engineers in the project.

11.5 As part of **AECOM**'s obligations towards Mhlathuze Water they had to monitor the work done by contractors. They had to ensure that invoices made

by contractors to Mhlathuze Water or any Variation Order are for the actual work done or carried out by contractors.

11.6 It is obvious that the invoices from Isibonelo Construction were not for work done on the project. Isibonelo Construction was not a subcontractor in the project warranting any payment from contractors neither was it a party on project number MW/13/2013 and MW/18/2013 in any capacity.

11.7 Variation Orders are exclusively reserved for instances where a contractor has to do additional work which was not catered for in the original scope of work. This Variation Orders were not for additional work done by the contractors therefore should not have been approved by **AECOM**.

11.8 **AECOM** could not firstly confirm or verify that the invoices from Isibonelo Construction were for actual work done for Mhlathuze Water. Of the 4 invoices submitted by Isibonelo Construction there were no references tying MW to a contract with Isibonelo Construction.

11.9 One invoice had a contract reference of MW within the four invoices submitted by Isibonelo Construction and that reference was MW/12/2015. Over and above this finding we have established as a fact that MW did not procured any services of any nature from Isibonelo Construction.

11.10 The callous conduct of **AECOM** is exacerbated by the glaring finding that the invoices from Isibonelo Construction were fraudulent and remain fraudulent in nature. No payment was due and payable to isibonelo Construction from MW.

11.11 **AECOM** will inadvertently say they were requested by Mhlathuze Water to process payment to Isibonelo Construction who had performed work for MW on a different project and were owed monies by MW.

11.12 The reason provided for Mhlathuze Water's instructions is always that MW's internal budgeting issues had resulted in a delay in payment to Isibonelo Construction, and as a temporal workaround, MW wished to utilize funds allocated to the COU Highlift Pumpstation Project to pay Isibonelo Construction.

11.13 Irrespective of **AECOM**'s version the conduct of preparing and approving the Variation Orders was irregular, unlawful and amounted to fraud.

11.14 Our investigation finds that **AECOM**'s conduct was blameworthy in that they were aware or ought to have been aware when they initiated the process of transmitting the invoices to the contractors that what they were doing was unlawful.

11.15 If their defense is that they were instructed by the authorized officials of Mhlathuze Water to facilitate the payment of the invoices, clearly on the face of it, this defense would be flawed. The instruction would have been unlawful and needed not to be complied with.

11.16 They knew or ought to have known that payment of an invoice in an unrelated contract was illegal and outside the scope of their appointment. They further had recourse in law if at all they were maligned because they had refused that unethical and unlawful instruction from officials of MW.

11.17 **AECOM** had a responsibility of effectively managing the project and signing off payment certificates. By signing payment certificates, **AECOM** certified to MW that work claimed by contractors was done according to specification and is of acceptable standard thus MW can pay.

11.18 This responsibility was well known to **AECOM** therefore they cannot deny their participation in this crime by alleging ignorance whereas no work certified by them in the VO's and the payment certificates was ever done by contractors insofar as it related to the payment of Isibonelo Construction.

11.19 We pause to point out that if **AECOM** had distanced itself from participation in the payment of the invoices, contractors would not have had the necessary safety net to proceed to claim the VO from MW. The conduct of **AECOM**

threw MW under the bus of irregular, unauthorized, fruitless and wasteful expenditure.

11.20 **AECOM** effectively enabled the payment of these Variation Orders. Without **AECOM**'s signature contractors would not have been able to claim the Variation Orders and MW would not have paid it.

11.21 **AECOM** would have known at the time **KLOMAC** claimed under Variation Order 008 in respect of contract number MW/13/2013 (MW/18/2013) that the Variation Order was a misrepresentation and a crime. The actual work claimed was outside the scope of the contract of work between Mhlathuze Water and **KLOMAC**.

11.22 **AECOM** as Consulting Engineers was supposed to be eyes and ears of Mhlathuze Water. **AECOM** was in a position of trust in terms of its relationship with MW. They owed a duty of good faith to MW and they failed in their responsibilities in all facets.

11.23 They failed in their responsibilities and participated in the facilitation of a crime and incriminated themselves in the process.

MHLATHUZE WATER

11.24 CONCLUSIONS

11.24.1 A reasonable inference can be drawn from the proven facts that **AECOM** colluded with contractors, Miss A Ngwane, Mboniseni Majola and Isibonelo Construction to defraud Mhlathuze Water.

11.24.2 The actions of **AECOM** were unethical, callous, dishonest and/or alternatively were negligent. As a result of their actions Mhlathuze Water was financially prejudiced.

11.24.3 The actions of **AECOM** aided and abated a criminal offence within the ambit of POCA.

11.24.4 **AECOM** were given an opportunity to be heard and there was nothing in their version that suggests that they have a defense in law for their actions.

11.24.5 **AECOM** may allege they did not benefit financially from their participation on the transactions however that on its own demonstrates that they were aware that the transaction was illegal from the onset.

11.24.6 Had **AECOM** refused to approve the Variation Orders, the entire fraudulent transactions may have been avoided.

MHLATHUZE WATER

11.25 RECOMMENDATIONS

11.25.1 **AECOM** should be reported to the National Society of Professional Engineers for violation of the NSPE Code of Ethics for Engineers: Rule of Practice II (1)(e) and (f).

11.25.2 **AECOM** should be reported to the CIDB for an investigation under section 28 of the CIDB Act to be instituted and for a formal enquiry contemplated under 29 of the CIDB Act to be launched.

11.25.3 Subject to the provisions of the Prescription Act, civil recovery court processes should be instituted against **AECOM** for the loss suffered by Mhlathuze Water as a result of **AECOM** in respect of the payment of the Variation Order approved by **AECOM**.

11.25.4 Criminal charges be laid against **AECOM** for fraud and money laundering. The scope of the criminal investigation will be wider in terms of the Criminal Procedure Act compared to the current investigation and therefore other crimes can emerge from this transaction.

11.25.5 **AECOM** must be reported to National Treasury to be blacklisted and debarred from doing business with MW in future.

COMMISSION OF INQUIRY INTO STATE CAPTURE

12. THE ROLE OF AFROSTRUCTURES

12.1 **AFROSTRUCTURES** was appointed by Mhlathuze Water as a contractor under contract number MW/13/2013 for the installation of structural and civil works. They were responsible for the payment of R917 940-54 (including Vat).

12.2 Their defense is that they received instructions from MW to make payment on its behalf.

12.3 From the exchange of the emails between **AECOM** and Mr. M Majola, it is glaringly clear that **AFROSTRUCTURES** was equally aware of what was discussed. **AFROSTRUCTURES** communicated with **AECOM**.

12.4 Mr. R Long Director of **AFROSTRUCTURES** was interviewed by **MHLANGA INC**. He acknowledged and conceded that they were requested to make payment to external contractors and claimed the payments as a VO.

12.5 They received an invoice from Isibonelo Construction in order to effect payment. They then negotiated a mark-up and handling fees in respect of the payments with the consulting engineer and agreed on 10%.

12.6 Effectively payment was then made on account of the invoices that were submitted to them. We still await proof of payment more so because Mr Long

had undertook to provide us with all the documentary evidence necessary to conclude this investigation. It is however not disputed that **AFRSOSTRUCTURES** made payment to Isibonelo Construction.

12.7 The nature of the transaction on closer examination of **AFROSTRUCTURES** version amounted to a loan. This conclusion is reached because **AFROSTRUCTURES** was appointed for the installation for the structural and civil works in the project and not to pay for other projects.

12.8 **AFROSTRUCTURES** is surely not in the business of giving loans to their clients or paying alleged creditors of their clients as they did herein. This version leaves a lot to be desired.

12.9 **AFROSTRUCTURES** subsequently claimed repayment of this amount by way of a Variation Order. **AFROSTRUCTURES** was well aware of what a Variation Order is and that it is used only if there is an alteration to the scope of works in a construction contract in the form of an addition, substitution or omission from the original scope of works.

12.10 Clearly their payment of the invoice presented by Isibonelo Construction could not have been within the ambit of a Variation Order. The actions of **AFROSTRUCTURES** in this regard are questionable and they exhibit an element of knowledge that their actions were *mala fide*.

12.11 **AFROSTRUCTURES** failed to make due diligence and find out if the transaction or request made by Mhlathuze Water through **AECOM** was allowed in any way in law.

12.12 **AFROSTRUCTURES** abandoned all checks and balances because they were aware of the profit they stood to make on this transaction.

12.13 There is a clear inference that is inescapable regarding **AFROSTRUCTURES** that they ought to have known that the transaction was illegal and unlawful, either they chose to play ignorant or they were simply negligent. Either way their actions are criminally and ethically reprehensible.

12.14 It is highly improbable that a reputable company like **AFROSTRUCTURES** would pay thousands of rand to an account of another entity and merely rely on the fact that they were instructed by a consulting engineer of a client.

12.15 **AFROSTRUCTURES** had a responsibility and a duty of good faith towards Mhlathuze Water. **AFROSTRUCTURES** made no attempt to verify the representations made by Mr K Sparks and Mr Majola on the reason it ought to pay the invoices.

12.16 CONCLUSIONS

12.16.1 At all material times **AFROSTRUCTURES** ought to have known that it was not responsible for making payments to Mhlathuze Water's suppliers irrespective of the circumstances.

12.16.2 They were aware that the request for payment of the invoices could not be reduced to a Variation Order as it was outside the scope of work they were appointed for in the first place.

12.16.3 **AFROSTRUCTURES** knew that it had a right to refuse to make payments of the invoices but chose not to do so. In fact, they justified the payment to **AECOM**.

12.16.4 The payment of the fraudulent invoices was in furtherance of a crime.

12.16.5 **AFROSTRUCTURES** further committed fraud when it claimed work done by way of a Variation Order whereas the payment was to recover a loan they had unlawfully advanced.

12.16.6 The letter of appointment that **AFROSTRUCTURES** signed as an indication of acceptance of such an appointment emerged from the

office of the CEO. It is peculiar that no verification was made to the CEO when the request for payment of the fraudulent invoices is made.

12.16.7 It is an inescapable conclusion that all the signs were there that what was asked of **AFROSTRUCTURES** was improper and unlawful but **AFROSTRUCTURES** decided to ignore the signs. They in fact decided to actively participate in this crime with full knowledge that they were committing a crime.

12.16.8 The reason that **AFROSTRUCTURES** ignored all possible signs in the fraudulent payment it effected on Isibonelo Construction is because they stood to profit to the prejudice of Mhlathuze Water.

12.17 RECOMMENDATION

12.17.1 **AFROSTRUCTURES** should be reported to the CIDB for an investigation under section 28 of the CIDB Act to be instituted and for a formal enquiry contemplated under 29 of the CIDB Act to be launched.

12.17.2 Subject to the provisions of the Prescription Act, civil recovery court processes should be instituted against **AFROSTRUCTURES** for the loss suffered by Mhlathuze Water as a result the payment of the Variation Orders which were claimed by **AFROSTRUCTURES**.

12.17.3 Criminal charges are to be laid against **AFROSTRUCTURES** for fraud and money laundering. The scope of the criminal investigation will be wider in terms of the Criminal Procedure Act compared to the current investigation and therefore other crimes can emerge from this transaction.

12.17.4 **AFROSTRUCTURES** must be reported to National Treasury to be blacklisted and debarred from doing business with MW in future.

13. THE ROLE OF KLOMAC

13.1 **KLOMAC** was appointed by Mhlathuze Water as a contractor under contract number MW/18/2013 for the installation of mechanical and electrical works. They were responsible for the payment of R3 013 513-92 (including Vat) to Isibonelo Construction which they subsequently reclaimed as Variation Orders.

13.2 **KLOMAC** were involved in the initial discussions with Mr. Majola and **AECOM** regarding the payment of Isibonelo Construction. The discussions were further reduced in writing by an email authored by Mr Majola.

13.3 We conducted interviews with the management of **KLOMAC** and present in that meeting was Mrs Gething, Mr. Van Viernen and Mr S Paton. The purpose of the meeting was to allow **KLOMAC** to proffer a version on the irregular transactions under investigation and where necessary to provide **MHLANGA INC** with documentation necessary for informed findings to be made in this investigation.

13.4 **KLOMAC** undertook to make their own internal investigation and to revert with documents and a version on these irregular transactions. We afforded **KLOMAC** over a month to revert to us and we went to the extent of sending them correspondence to remind them that these investigations are urgent

and are of extreme importance. Our calls for their side of the story as at the time of penning this report had not been heeded.

13.5 Our findings against **KLOMAC** are premised on the documentary evidence that we have interrogated as well as versions from other role players who consented to be interviewed and submitted documents to the investigators.

13.6 **KLOMAC** received tax invoices from Isibonelo Construction in order to effect payment. The Invoices received by **KLOMAC** were addressed to it by Isibonelo Construction. The mark-up and/or handling fees levied by **KLOMAC** was 1%. This amount was reclaimed by **KLOMAC** on Variation Orders number 008 and 016 respectively.

13.7 From the exchange of the emails between **AECOM** and Mr. M Majola it is glaringly clear that **KLOMAC** was equally aware of what was discussed. They in fact sanctioned the payment of Isibonelo Construction.

13.8 There is no basis in law for **KLOMAC** for paying the invoices on behalf of MW. **KLOMAC** has not proffered any reason why it made this payment. We conclude that there is no version that can be put forward by **KLOMAC** that may alter the conclusion that the payment of those invoices was fraudulently in nature.

13.9 In the absence of **KLOMAC**'s version we then have to establish whether **KLOMAC** was aware that its payment of the invoices and the subsequent claim by way of a VO amounted to a crime.

13.10 **KLOAMC** was appointed for the installation for the mechanical and electrical works in the project and not to pay for other projects. **KLOMAC** should have raised eye brows and question when they were requested to pay for a service provider on behalf of MW.

13.11 **KLOMAC** has not provided proof at any rate that they protested the unusual payment to pay the invoices of Isibonelo Construction.

13.12 The logical inference to be drawn is that **KLOMAC** could not resist the opportunity of making a profit even at the risk of committing fraud.

13.13 **KLOMAC** claimed payments it made to Isibonelo Construction by way of Variation Orders. **KLOMAC** was well aware of what a Variation Order is used only if there is an alteration to the scope of works in a construction contract in the form of an addition, substitution or omission from the original scope of works.

13.14 Clearly their payment of the invoice presented by Isibonelo Construction could not have been within the ambit of a Variation Order. The actions of

KLOMAC in this regard demonstrate that they ought to have known that the payments were illegal.

13.15 **KLOMAC** abandoned all checks and balances because they were aware of the profit they stood to make on this transaction.

13.16 There is a clear inference that is inescapable regarding **KLOMAC** in that they ought to have known that the transaction was illegal and unlawful, either they chose to play ignorant or they were simply negligent. Either way their actions are criminally and ethically reprehensible.

13.17 It is highly improbable that a reputable company like **KLOMAC** would pay millions of rands to an account of another entity and merely rely on the fact that they were instructed by a consulting engineer of a client.

13.18 **KLOMAC** had a responsibility and a duty of good faith towards Mhlathuze Water. **KLOMAC** made no attempt to verify the representations made by Mr K Sparks and Mr Majola on the reason it ought to pay the invoices.

MHLATHUZE WATER

13.19 CONCLUSIONS

13.19.1 At all material times **KLOMAC** ought to have known that it was not responsible for making payments to Mhlathuze Water's suppliers irrespective of the circumstances.

13.19.2 They were aware that the request for payment of the invoices could not be reduced to a Variation Order as it was outside the scope of work they were appointed for in the first place.

13.19.3 **KLOMAC** knew that it had a right to refuse to make payments of the invoices but chose not to do so. In fact, they justified the payment to **KLOMAC**.

13.19.4 The payment of the fraudulent invoices was in furtherance of a crime.

13.19.5 **KLOMAC** further committed fraud when it claimed work done by way of a Variation Order whereas the payment was to recover a fraudulent payment of invoices.

13.19.6 The letter of appointment that **KLOMAC** signed as an indication of acceptance of such an appointment emerged from the office of the

CEO. It is peculiar that no verification was made to the CEO when the request for payment of the fraudulent invoices is made.

13.19.7 It is an inescapable conclusion that all the signs were there that what was asked of **KLOMAC** was improper and unlawful but **KLOMAC** decided to ignore the signs. They in fact decided to actively participate in this crime with full knowledge that they were committing a crime.

13.19.8 The reason that **KLOMAC** ignored all possible signs in the fraudulent payment it effected on Isibonelo Construction is because they stood to profit to the prejudice of Mhlathuze Water.

MHLATHUZE WATER

13.20 RECOMMENDATION

13.20.1 **KLOMAC** should be reported to the CIDB for an investigation under section 28 of the CIDB Act to be instituted and for a formal enquiry contemplated under 29 of the CIDB Act to be launched.

13.20.2 Subject to the provisions of the Precsription Act, civil recovery court processes should be instituted against **KLOMAC** for the loss suffered by Mhlathuze Water as a result the payment of the Variation Orders which were claimed by **KLOMAC**.

13.20.3 Criminal charges are to be laid against **KLOMAC** for fraud and money laundering. The scope of the criminal investigation will be wider in terms of the Criminal Procedure Act compared to the current investigation and therefore other crimes can emerge from this transaction.

13.20.4 **KLOMAC** must be reported to National Treasury to be blacklisted and debarred from doing business with MW in future.

COMMISSION OF INQUIRY INTO STATE CAPTURE

14. THE ROLE OF MDIMA CIVILS

14.1 **MDIMA CIVILS** was subcontracted to **KLOMAC**. **MDIMA CIVILS'** subcontract allowed MW to make payment directly to **MDIMA CIVILS**. We have made adverse findings on the conduct of MW in paying **MDIMA CIVILS** directly when **MDIMA CIVILS** was subcontracted to **KLOMAC**.

14.2 We conducted interviews with Mr. X Shange of **MDIMA CIVILS** regarding payments made to **MDIMA CIVILS** analogous to the payments made to Isibonelo Construction. We have made findings and recommendations on those reports regarding the conduct of **MDIMA CIVILS** in submitting fraudulent invoices.

14.3 On those transactions **MDIMA CIVILS** had made fraudulent invoices wherein it claimed that it had done work for MW when in fact the project quoted in the invoice had been completed at least months before the invoice. The invoices were paid by a contractor (**SSO JV VETATYPE**) and claimed by the contractor as a variation order.

14.4 It is in that interview that Mr Shange revealed that he was given an invoice from Isibonelo Construction and instructed by officials of MW to pay it and to further reclaim the amount so paid as Variation Order.

14.5 Tax invoice number ISB07987 dated 29 September 2015 addressed to **MDIMA CIVILS** is submitted by Isibonelo Construction. The invoice bears order number MW/12/2015. The invoice was for an amount of R930 241-02 (including Vat). Annexure M

14.6 Having investigated various transactions involving Isibonelo Construction we had gone through the records of MW to establish if Isibonelo Construction had rendered any services for MW. Our findings from then conclusively demonstrated that Isibonelo Construction has never rendered services for MW. We therefore conclude that the invoice was fictitious and or it was fraudulent.

14.7 **AECOM** prepared variation order number 020 which was signed by the consulting engineer on 13 October 2015. The VO was for an amount of R2 053 065-72. The amount of R930 214-02 was included amongst other items which was described as additional work done by **KLOMAC** and **MDIMA CIVILS**. Annexure N

14.8 There is no basis in law for **MDIMA CIVILS** paying the invoice on behalf of MW. **MDIMA CIVILS** simply indicated that they were requested by MW to pay the invoice. We conclude that there is no version that can be put forward by **MDIMA CIVILS** that may alter the conclusion that the payment of the invoice was fraudulently.

14.9 **MDIMA CIVILS'** version demonstrates unequivocally that it was aware that its payment of the invoice and the subsequent claim by way of a VO amounted to a crime. **MDIMA CIVILS** conceded this view during our interview. Mr Shange went on to disclose in our interview that the payments he received which were fraudulent in nature were transferred to another company at the instructions of the officials of MW.

14.10 Mr. Shange provided documentation in support of his version relating to invoices he received in support of the instruction made by MW officials for the transferring of the funds to other entities.

14.11 **MDIMA CIVILS** was appointed as a subcontractor in the project and not to pay for other projects. **MDIMA CIVILS** should have rejected the request to pay the invoice of Isibonelo Construction and furthermore they should have questioned why they were requested to pay for a service provider on behalf of MW irrespective of the circumstances the request was made.

14.12 **MDIMA CIVILS** has not provided proof on their version at whether they protested the unusual request to pay the invoices of Isibonelo Construction.

14.13 **MDIMA CIVILS** claimed the payment it made to Isibonelo Construction by way of Variation Order. **MDIMA CIVILS** was well aware of what a Variation Order is and that it is used only if there is an alteration to the scope of

works in a construction contract in the form of an addition, substitution or omission from the original scope of works.

14.14 Clearly their payment of the invoice presented by Isibonelo Construction could not have been within the ambit of a Variation Order. The actions of **MDIMA CIVILS** and their version demonstrate that they knew that the payment was illegal.

14.15 **MDIMA CIVILS** abandoned all checks and balances because they were aware of the profit they stood to make on this transaction.

14.16 It is highly improbable that **MDIMA CIVILS** would pay thousands of rands to an account of another entity and merely rely on the fact that they were instructed by a consulting engineer of a client.

14.17 **MDIMA CIVILS** had a responsibility and a duty of good faith towards Mhlathuze Water. **MDIMA CIVILS** made no attempt to verify the representations made by Mr. K Sparks and Mr. Majola on the reason it ought to pay the invoices.

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER

14.18 CONCLUSIONS

14.18.1 At all material times **MDIMA CIVILS** knew that it was not responsible for making payments to Mhlathuze Water's suppliers irrespective of the circumstances.

14.18.2 They were aware that the request for payment of the invoices could not be reduced to a Variation Order as it was outside the scope of work they were appointed for in the first place.

14.18.3 **MDIMA CIVILS** knew or ought to have known that it had a right to refuse to make payments of the invoice but chose not to do so. In fact, they justified the payment to Isibonelo Construction.

14.18.4 The payment of the fraudulent invoices was in furtherance of a crime.

14.18.5 **MDIMA CIVILS** further committed fraud when it claimed work done by way of a Variation Order whereas the payment was to recover a fraudulently paid invoice.

COMMISSION OF INQUIRY INTO STATE CAPTURE

14.18.6 It is an inescapable conclusion that all the signs were there that what was asked of **MDIMA CIVILS** was improper and unlawful but **MDIMA CIVILS** decided to ignore the signs. They in fact decided to actively participate in this crime with full knowledge that they were committing a crime.

14.18.7 The reason that **MDIMA CIVILS** ignored all possible signs in the fraudulent payment it effected on Isibonelo Construction is because they stood to profit to the prejudice of Mhlathuze Water.

14.19 RECOMMENDATION

14.19.1 **MDIMA CIVILS** should be reported to the CIDB for an investigation under section 28 of the CIDB Act to be instituted and for a formal enquiry contemplated under 29 of the CIDB Act to be launched.

14.19.2 Subject to the provisions of the Prescription Act, civil recovery court processes should be instituted against **MDIMA CIVILS** for the loss suffered by Mhlathuze Water as a result the payment of the Variation Orders which were claimed by **MDIMA CIVILS.**

14.19.3 Criminal charges are to be laid against **MDIMA CIVILS** for fraud and money laundering. The scope of the criminal investigation will be wider in terms of the Criminal Procedure Act compared to the current investigation and therefore other crimes can emerge from this transaction.

14.19.4 **MDIMA CIVILS** must be reported to National Treasury to be blacklisted and debarred from doing business with MW in future.

MHLATHUZE

15. SIBUSISO MAKHANYA

15.1 Mr. Mkhanya was the Chief Executive Officer of Mhlathuze Water at the time the invoices were recommended and approved for payment by MS A Ngwane and Mr Majola respectively.

15.2 Mr Makhanya as CEO at the time was the Accounting Officer and accordingly he had to ensure that there were effective, efficient and transparent financial systems and controls.

15.3 Mr. Makhanya ought to have taken effective and appropriate steps to prevent unauthorized, irregular and fruitless and wasteful expenditure. These steps start from preventing the unlawful recommendation and approval for payment of the actual invoice and extend to the actual payment of the VO which was not signed by the CEO, yet it was paid.

15.4 The mere fact that employees of MW were able to present fraudulent invoices and solicit unlawful payments clearly demonstrates that there were no effective and efficient systems and controls in place in MW.

15.5 The consequences of Mr. Makhanya's failure to put systems in place resulted to Mhlathuze Water being open to financial risk and loss.

15.6 The issue is further exacerbated by the fact that the Delegations of Authority of Mhlathuze Water directed unequivocally that any VO involving an amount exceeding One Million Rand was to be approved **ONLY** by the CEO.

15.7 The VO from **KLOMAC**, **AFROSTRUCTURES** and **MDIMA CIVILS** exceeded the One Million Rand threshold, was not signed by the CEO but was successfully paid.

15.8 Mr Makhanya has been terminated by MW. We were unable to interview him and get his version as to whether he knows anything regarding the transactions under investigation. We have however made unsuccessful attempts to get hold of him for purposes of obtaining his version.

15.9 It is not a coincident that all these unlawful transactions are effected without Mr Makhanya's signature. It becomes clear that Mr. Makhanya had delegated his responsibilities to his foot soldiers and lieutenants within MW. This was deliberately done in order for Mr. Makhanya to distance himself from direct involvement in these Variation Orders.

15.10 Our findings are that Mr Makhanya was either negligent or complicit in the execution of his responsibilities and functions as the CEO of MW.

15.11 Mr. Makhanya's negligence was to the sole detriment of MW and exposed to MW to an astronomical risk of fruitless, wasteful, unauthorized and irregular expenditure.

15.12 The defense of ignorance of the transactions including the Variation Orders will not be available to Mr Makhanya. The PFMA placed a high premium on Mr Makhanya preventing irregular, fruitless and wasteful expenditure as the Accounting Officer. The PFMA operates on a strict liability basis against Mr Makhanya.

15.13 The CEO operates strategically and as such there are expectations of his leadership and knowledge which places a high premium on his skill and care. It is on that basis that the PFMA operates on a strict liability when a CEO has abdicated his responsibilities in a manner similar to what Mr. Makhanya has done.

15.14 A response to the effect that Mr. Makhanya was not aware of the transaction will still fall foul of section 38 of the PFMA and its Regulations.

15.15 It holds true that Mr Makhanya could abdicate his responsibility and delegations but he cannot abdicate his accountability even for the conduct of his Programme Manager and Project Managers.

15.16 Mr Makhanya did not maintain effective, efficient and transparent systems of financial and risk management and internal control as he was enjoined to do so by the PFMA and its regulations.

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER

RECOMMENDATIONS

15.17.1 A criminal investigation must be initiated against Mr Makhanya to establish the extent of his involvement in the transaction under investigation. The scope of the criminal investigation will be wider in that it will be able to establish if corruption, racketeering and money laundering elements were present as contemplated in POCA.

15.17.2 He should have been charged for acts of financial misconduct, and/or gross negligence and/or gross dereliction of duty.

15.17.3 Mr. Makhanya should also be subjected to civil recovery court process for the loss suffered by Mhlathuze Water jointly and severally with all the other active participants in this fraudulent transaction, with one paying the others being absolved.

16. MBONISENI MAJOLA AND ANDILE NGWANE

16.1 Mr. Majola was the person who interacted with **AECOM** regarding the extraordinary payments of the invoices from Isibonelo Construction.

16.2 In most communications Mr. Majola had with **AECOM**, **KLOMAC**, **AFROSTRUCTURES** and **MDIMA CIVILS** via emails and telephonically Miss Ngwane was kept abreast of what was happening.

16.3 Mr. Majola as a Program Manager and Miss Ngwane as a Project Manager at the time would have known that Isibonelo Construction had not rendered any work for Mhlathuze Water and would have been aware of the fraudulent nature of these invoices which were paid as VO.

16.4 At the commencement of this investigation, Miss Ngwane and Mr. Majola were no longer employees of Mhlathuze Water.

16.5 We were unable to interview both Mr Majola and Miss A Ngwane owing to the fact that they are both out of employment at Mhlathuze Water.

16.6 Given that it is evident that the invoices were fraudulent Miss Ngwane and Mr. Majola have a criminal case to answer on what basis did they recommend and approve payment of the fraudulent invoice when they were aware at the time that the invoice were fraudulent and that no actual work had been done by Isibonelo Construction on behalf of Mhlathuze Water.

16.7 Both Miss Ngwane and Mr. Majola had no legal basis and/or authority to solicit payment of the invoice from third parties on behalf of Mhlathuze Water.

16.8 The Delegations of Authority Policy provides that a Variation Order exceeding an amount of R1m should be dealt with by the CEO and if it is less than R1m it must be delegated to the respective Head of Department.

16.9 Miss A Ngwane and Mr Majola were neither CEOs nor Heads of Departments at the relevant times and therefore had no authority to approve the invoice.

16.10 An inference can be drawn from the proven facts that both Ngwane and Majola ought to have been aware that the delegation to sign and approve the invoice in terms of the DOA rested with the CEO.

16.11 Mr. Majola and Miss A Ngwane's conduct is criminal in nature as evidence suggests that at all material times they knew that the invoices were not for work done for Mhlathuze Water and were thus fraudulent.

16.12 We established that it is not the first transactions which were unlawful or irregular, fruitless and wasteful in nature that Miss Ngwane and Mr Majola were involved in.

16.13 Our investigation on the 3 former employees of MW is hindered by the fact that we are not a law enforcement agency and accordingly there are areas of our investigation into their suspected criminality in this matter which is limited on those bases.

16.14 Miss Ngwane practically authorized **AECOM** to issue the Variation Orders. The signatures they appended on the invoices of Isibonelo Construction practically confirmed that the works had been carried out by Isibonelo Construction when in fact they knew that such was a misrepresentation.

16.15 The actions of Miss Ngwane and Mr Majola effectively were done intentionally to prejudice MW. We have established that their actions seem must have been done with the blessing of the CEO Mr Makhanya. Invariably Mr Majola and Miss Ngwane appear to have been the foot soldiers of Mr Makhanya.

16.16 RECOMMENDATIONS

16.16.1 Miss Ngwane and Mr Majola are no longer employed by Mhlathuze Water therefore it would be impossible to subject them to an internal disciplinary hearing.

16.16.2 We established that both Ngwane and Majola are qualified engineers and may be members of the Engineers profession. Their conduct can be reported to their professional body to an extent that they are members of such bodies.

16.16.3 Criminal charges of fraud and money laundering should be laid against Miss Ngwane and Mr Majola with the SAPS.

16.16.4 Subject to the provisions of the Prescription Act, civil recovery Court processes for the loss suffered by Mhlathuze Water as a result of the fraudulent actions committed by Miss Ngwane and Mr Majola must be instituted.

17. CONCLUSION

17.1 We conclude that the payments totaling to **R5 815 671-02** to Isibonelo Construction herein were unauthorized, irregular, fruitless and wasteful expenditure.

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: AECOM; PROJECT CONSTRACTORS: AFROSTRUCTURES & KLOMAC; SUB-CONTRACTORS: MDIMA CIVILS: PROJECT NAME: COU HIGHLIFT PUMPSTATION: AMOUNT: R2 100 000.00 (VO 008), R1 662 604.30 (VO 016), R2 053 066.72 (VO 020)

ANNEXURE A

Prepared by

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MHLATHUZE WATER · AMANZI

Enquiries/Navrae:	*Mr M. Myeni*
e-mail address/e-pos adres:	*mmyeni@mhlathuze.co.za*
Our reference/Ons verwysing:	*Letter of Appointment: MW/18/2013*
Your reference/U verwysing:	*MW/18/2013*

07 January 2014

Afrostructures (Pty) Ltd
P.O Box 608
NEW GERMANY
3620

Fax/e-mail: grae@afrostructures.co.za

Attention: Mr Garth Rae

Dear Sir

LETTER OF APPOINTMENT: INSTALLATION OF STRUCTURAL AND CIVIL WORKS FOR THE NSEZI CITY OF uMHLATHUZE HIGH LIFT PUMPSTATION MW/18/2013

Mhlathuze Water hereby appoints you for the Installation of Structural and Civil Works for the Nsezi City of uMhlathuze High Lift Pumpstation, as detailed in the scope of works in the tender document at an amount of **R98 424 094.34** including VAT and Contract Price Adjustment (CPA). This appointment is subject to Afrostructures (Pty) Ltd submitting a sub contract agreement with a 100% black owned company for a minimum of 30% of the contract value.

For the commencement dates of this appointment kindly liaise with the Programme Manager-Mr M Majola on contact number 035-902 1044 or email:mmajola@mhlathuze.co.za.

On acceptance of appointment you will be requested to sign the tender document as the condition of contract. This letter forms part of the conditions of the agreement.

Please note that this appointment does not bind Mhlathuze Water in any way to appointing you or your firm for any further phases or stages that may be identified as a result of this appointment.

Your appointment is subject to five (5) days objection period which expires on the 13th of January 2014.

Yours faithfully,

Mr Mandla Myeni
Acting Chief Executive Officer

07/01/2014
Date

Acceptance of appointment for contract MW/18/2013 by:

Garth Rae

Name and surname: On behalf of AFROSTRUCTURES (PTY) LTD

Signature

07/01/2014

Date

Rejection of appointment for contract MW/18/2013 by:

Name and surname: On behalf of AFROSTRUCTURES (PTY) LTD

Signature

Date

Company Stamp:

AFROSTRUCTURES (PTY) LTD
Reg. No. 95/003404/07
VAT No: 4810149767
P.O. Box 608, New Germany 3620
Tel: 031 817 2600
Fax: 031 817 2626

Cc: Ms Zakithi Magubane
SCM Manager

Cc: Mr Mboniseni Majola
Programme Manager

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE

WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: AECOM; PROJECT CONSTRACTORS: AFROSTRUCTURES & KLOMAC; SUB-CONTRACTORS: MDIMA CIVILS: PROJECT NAME: COU HIGHLIFT PUMPSTATION: AMOUNT: R2 100 000.00 (VO 008), R1 662 604.30 (VO 016), R2 053 066.72 (VO 020)

ANNEXURE B

Prepared by

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admin@klomaceng.co.za

Enquiries/Navrae: *Mr S Makhanya*
e-mail address/e-pos adres: *smakhanya@mhlathuze.co.za*
Our reference/Ons verwysing: *Letter of Appointment: MW/13/2013*
Your reference/U verwysing: *MW/13/2013*

MHLATHUZE WATER - AMANZI

15 January 2014

KLOMAC ENGINEERING
ROCHDALE PARK
DURBAN
4034

Fax/Email: admin@klomaceng.co.za

Dear Sir/Madam

APPOINTMENT LETTER: INSTALLATION OF MECHANICAL AND ELECTRICAL WORKS FOR THE NSEZI CITY OF uMHLATHUZE HIGH LIFT PUMPSTATION-MW/13/2013

Mhlathuze Water hereby appoints you for the Installation of Mechanical and Electrical Works for the Nsezi City of uMhlathuze High Lift Pumpstation, as detailed in the scope of works in the tender document at an amount of **R51 809 441.25** including VAT, Contingencies and Contract Price Adjustment (CPA). This appointment is subject to your company submitting a proposal on how you will split the work between you as main contractor and your selected sub-contractor Mdima Civils for a minimum of 40% of the contract value. Mhlathuze Water requires this detailed proposal by 29 January 2014, furthermore the sub-contractor will be paid directly for the work done and certified correct by the main contractor and the consultant.

For the commencement dates of this appointment kindly liaise with the Programme Manager-Mr Mbonlseni Majola on contact number 035-902 1044 or email:mmajola@mhlathuze.co.za.

On acceptance of appointment you will be requested to sign the tender document as the condition of contract. This letter forms part of the conditions of the agreement.

Please note that this appointment does not bind Mhlathuze Water in any way to appointing you or your firm for any further phases or stages that may be identified as a result of this appointment.

Yours faithfully,

Mr. Sibusiso Makhanya
Acting Chief Executive Officer

15/01/14
Date

COMMISSION OF INQUIRY INTO STATE CAPTURE

Acceptance of appointment for contract MW/13/2013 by:

Colin Paton

Name and surname: On behalf of KLOMAC ENGINEERING

Signature

15 January 2014.

Date

Rejection of appointment for contract MW/13/2013 by:

Name and surname: On behalf of KLOMAC ENGINEERING

Signature

Date

Company Stamp:

KLOMAC ENGINEERING C.C.
P.O. BOX 74353
ROCHDALE PARK 4034
DURBAN
TEL: (031) 579 5500
FAX: (031) 579 1043

Cc: Ms Zakithi Magubane
SCM Manager

Cc: Mr Nkonisent Majola
Programme Manager

MHLATHUZE
WATER - AMANZI

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: AECOM; PROJECT CONSTRACTORS: AFROSTRUCTURES & KLOMAC; SUB-CONTRACTORS: MDIMA CIVILS: PROJECT NAME: COU HIGHLIFT PUMPSTATION: AMOUNT: R2 100 000.00 (VO 008), R1 662 604.30 (VO 016), R2 053 066.72 (VO 020)

ANNEXURE C

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

1003B Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
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admin@mhlangainc.co.za

MDIMA CIVILS cc.

DATE: 19 February 2014

P.O. BOX 329

HIGH FLATS

3306

TEL: 031 -7010074

Attention: Mr Xolani Shange

Dear Sir

RE- APPOINTMENT LETTER: INSTALLATION OF MECHANICAL AND ELECTRICAL WORKS FOR THE NSEZI CITY OF UMHLATHUZE HIGH LIFT PUMPSTATION – CONTRACT NO. MW/13/2013

Klomac Engineering cc. hereby appoints Ndima Civils for the installation of Mechanical works for the Nsezi City of Umhlathuze high lift Pumpstation as detailed in the scope of works at an amount of R14 568 652.00.

For the commencement dates of this appointment kindly liaise with the Project manager- Mr. Mark Freeman on contact number 031-5796825 or email engineering@klomaceng.co.za.

Please note that this appointment does not bind Klomac Engineering in any way to appointing you or your firm for any further phases or stages that may be identified in this project as a result of this appointment.

We look forward to the successful completion of this contract.

Yours faithfully

Colin Gordon Paton

Member

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: AECOM; PROJECT CONSTRACTORS: AFROSTRUCTURES & KLOMAC; SUB-CONTRACTORS: MDIMA CIVILS: PROJECT NAME: COU HIGHLIFT PUMPSTATION: AMOUNT: R2 100 000.00 (VO 008), R1 662 604.30 (VO 016), R2 053 066.72 (VO 020)

ANNEXURE D

Prepared by

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COMMISSION OF INQUIRY INTO STATE CAPTURE

Khan, Naufal

From: Sparks, Kelvin
Sent: 22 January 2015 02:43 PM
To: Mboniseni Majola
Cc: Andile Ngwane; Mark Klomac Engineering (engineering@klomaceng.co.za); Khan, Naufal
Subject: RE: Payment request

Please provide the details of the sub-contractor and the amount of the VO

We will in the meantime generate a reconciliation of the financials to determine where the project stands.

Regards,

Kelvin

From: Mboniseni Majola [mailto:MMajola@mhlathuze.co.za]
Sent: 22 January 2015 02:38 PM
To: Sparks, Kelvin
Cc: Andile Ngwane; Mark - Klomac Engineering (engineering@klomaceng.co.za) (engineering@klomaceng.co.za)
Subject: Payment request

Dear Kelvin

Reference is made to the telephonic discussion we have had today at 14h35p.m. as follows;
Mhlathuze Water hereby give an instruction to pay the subcontractor as per the provided invoice to Klomac Engineering.

A variation order should be prepared accordingly as well as the recon of payments on the January 2015 payment certificate.

Regards

MBONISENI MAJOLA | PROGRAMME MANAGER | MHLATHUZE WATER
City of South Africa | Cell:
Off ce: +27 35 902 1544 |
www.mhlathuze.co.za

SI/NOM/LP/075

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: AECOM; PROJECT CONSTRACTORS: AFROSTRUCTURES & KLOMAC; SUB-CONTRACTORS: MDIMA CIVILS: PROJECT NAME: COU HIGHLIFT PUMPSTATION: AMOUNT: R2 100 000.00 (VO 008), R1 662 604.30 (VO 016), R2 053 066.72 (VO 020)

ANNEXURE E

Prepared by

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Attorneys & Conveyancers

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admin@mhlangainc.co.za

From:Mhlathuze Water Engineering Tel:035 78 1043 20/01/2015 10:08 Page P.001

ISIBONELO CONSTRUCTION CC

CK/1997/051620/23
P O BOX 9553
RICHARDS BAY, 3900 SOUTH AFRICA
Phone: 035 797 5240 Fax/Phone: 035 797 5240
email:isibonelo@cyh.net

TAX INVOICE
ISB032

TAX INVOICE

VAT No: 4030175733

Customer
Att. Mark Freeman
Klomac Engineering

Code ZIP

15/01/2015

Description	TOTAL
P&G's	R 350 000.00
Crane mst. & Commission	R 1 200 000.00
Road surfacing	R 386 000.00
Manholes	R 85 000.00
Electrification	R 100 000.00

MHLATHUZE WATER

AANBEVEEL / RECOMMENDED	DATUMS 2015/01/15
GOEDGEKEUR / APPROVED	DATES 2015/1/15

Banking details:
Acc Name: Isibonelo Construction cc
Bank name: Standard Bank
Acc No. 062014803
Branch Code: 057630

R2 100 000.00

Payment
- ( ) Cash
- ( ) Cheque
- ( ) Credit Card

Expires:

Taxes R 294 000.00

R 2 394 000.00

PAYMENT TERMS:

SI/NCOMHLP/075

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: AECOM; PROJECT CONSTRACTORS: AFROSTRUCTURES & KLOMAC; SUB-CONTRACTORS: MDIMA CIVILS: PROJECT NAME: COU HIGHLIFT PUMPSTATION: AMOUNT: R2 100 000.00 (VO 008), R1 662 604.30 (VO 016), R2 053 066.72 (VO 020)

ANNEXURE F

Prepared by

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Attorneys & Conveyancers

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COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER
NSEZI CITY OF MHLATHUZE HIGH LIFT PUMPSTATION
VARIATION ORDER

CONTRACT NO : MW 18/2013 (Incorporating MW/13/2013)
DESCRIPTION : Structural, Civil, Mechanical & Electrical Works
CONTRACTOR : Afrostructures (Pty) Ltd
VARIATION ORDER NUMBER : 008

This variation order shall be regarded as an order in writing in terms of Clause 13 of the FIDIC Yellow Book Conditions of Contract, 1999

ENGINEER'S EXPLANATION AND DESCRIPTION OF VARIATION:

1. **Reason for Variation: Payment to External Contractor**

Additional Work [X] Design Change [ ] Specification Change [ ]
Omitted Work [ ] Provisional Sum [ ] Additional Resources [ ]

2. **Requested/instructed by Engineer on:** 23/01/2014 (Refer to SI/NCOMHLP/075)
3. **Description and Motivation:** Client requires Klomac to advance payment to an External Contractor (Isibonelo Construction) for works carried out at an alternative project.
4. **Extension of Time Granted:** 0 Calendar Days
5. **Revised Completion Date:** Unchanged - 30 April 2015

ITEM	DESCRIPTION	UNIT	QTY	NEW RATE	AMOUNT OMIT	AMOUNT ADD
New	Work carried out by Isibonelo Construction at an alternate project.	No	1	R2 100 000 00	R0 00	R2 100 000.00
						R2 100 000.00
TOTAL					-	R0.00
NET EFFECT ON VALUE OF CONTRACT						

Note:
1. The amount has been agreed, but where dates and times are mentioned, they are not necessarily agreed to.
2. The above rates exclude VAT
3. No extension of time is due.
4. No additional P&G's or other costs are due
5. This variation order shall not be subject to price variation.
6. Quantities are re-measurable (where applicable)
7. Invoice and Client Instruction is attached.

The expenditure shall be funded from:

Savings on scheduled work [ ] Contingencies allowed [X]
Additional funds requested [ ] Provisional sum [ ]

APPROVED
ENGINEER
DATE 24/1/15

APPROVED
EMPLOYER
DATE 2015/01/23

ACCEPTED
CONTRACTOR
DATE 24/01/15

SI/NCOMHLP/075

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: AECOM; PROJECT CONSTRACTORS: AFROSTRUCTURES & KLOMAC; SUB-CONTRACTORS: MDIMA CIVILS: PROJECT NAME: COU HIGHLIFT PUMPSTATION: AMOUNT: R2 100 000.00 (VO 008), R1 662 604.30 (VO 016), R2 053 066.72 (VO 020)

ANNEXURE G

Prepared by

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admin@mhlanga.co.za

COMMISSION OF INQUIRY INTO STATE CAPTURE

AECOM

SITE INSTRUCTION

Project:	Nsezi City of Mhlathuze High Lift Pumpstation	SI No:	SI/NCOMHLP/075
Contractor:	Afrostructures (Pty) LTD	Date:	26 January 2015
Contract No.:	MW/18/2013 & MW/13/2013	Ref:	J01788-03

Section	N/A	Spec change	N/A	Instruction	Y	Drawing ref. no.	N/A
Item	new	Information	N/A	Day work	N/A	Doc. ref. no.	N/A

Details of Instruction: VO 008 – Payment to External Contractor

See attached variation order, VO 008, for payment to external contractors, Isibonelo Construction CC as per Mhlathuze Water's request.

Note that payment of the variation is to be claimed under the contingencies section of the BoQ (MW/13/2013).

ENGINEER

Issued by: Naufal Khan

Designation: Engineer's Representative

Estimated quantity: N/A

Estimated cost: R 2 100 000.00

Effect on programme: Nil

CONTRACTOR

Received by: _____ Date: 26/01/15

As-Built drawings affected	Quantities agreed	Costs within Payment Schedule	Action	Date	N/A
N/A	N/A	N/A	To be executed by:	N/A	N/A

COPIES TO:	Contract Manager	Project Manager	Client	Struct	Civil	Mech	Electr	Wet Services	Architect	QS

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: AECOM; PROJECT CONSTRACTORS: AFROSTRUCTURES & KLOMAC; SUB-CONTRACTORS: MDIMA CIVILS; PROJECT NAME: COU HIGHLIFT PUMPSTATION: AMOUNT: R2 100 000.00 (VO 008), R1 662 604.30 (VO 016), R2 053 066.72 (VO 020)

ANNEXURE H

Prepared by

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Attorneys & Conveyancers

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admin@mhlangainc.co.za

TAX INVOICE
ISB 0897

ISIBONELO CONSTRUCTION CC

CK/1997/051620/23
P O BOX 9553
RICHARDS BAY 3900 SOUTH AFRICA
Phone 035 797 5240 Fax/Phone 035 797 5240
email:isibonelo@icy1.net

TAX INVOICE

VAT No 4030176733

Customer

Name Afrostructures Construction
Address
City Code ZIP
Vat No.

Date 24/06/2015
Order No
Rep
FOB

Qty	Description	Unit Price	TOTAL
	Alterations of offices		R 805 211.00

Our banking details are as follows:
Acc Name: Isibonelo Construction cc
Bank name. Standerd bank
Acc No.: 062014803
Branch Code. 057530
Branch name:Empangeni

Payment Details

- (●) Cash
- ( ) Cheque
- ( ) Credit Card

Name
CC #
Expires

SubTotal		R 805 211.00
Shipping & Handling		
Taxes	SA	R 112 729.54
TOTAL		R 917 940.54

PAYMENT TERMS. 7 DAYS FROM DATE OF INVOICE

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: AECOM; PROJECT CONSTRACTORS: AFROSTRUCTURES & KLOMAC; SUB-CONTRACTORS: MDIMA CIVILS: PROJECT NAME: COU HIGHLIFT PUMPSTATION: AMOUNT: R2 100 000.00 (VO 008), R1 662 604.30 (VO 016), R2 053 066.72 (VO 020)

ANNEXURE I

Prepared by

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Attorneys & Conveyancers

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admin@mhlangainc.co.za



ISIBONELO CONSTRUCTION CC

CK/1997/051620/23
P O BOX 9553
RICHARDS BAY 3900 SOUTH AFRICA
Phone 035 797 5240 Fax/Phone 035 797 5240
email:isibonelo@icyt.net

TAX INVOICE
ISB 0899

VAT No. 4030175733

TAX INVOICE

Customer

Name Klomac Engineering
Address
City
Vat No. Code ZIP

Date 24/06/2015
Order No
Rep
FOB

Qty	Description	Unit Price	TOTAL
1	Perimeter fencing		R 400 000.00
2	Servicing airconditioners		R 401 328.00

Our banking details are as follows.
Acc Name: Isibonelo Conatruction cc
Bank name. Standard bank
Acc No.. 062014803
Branch Code. 057530
Branch name:Empangeni

Payment Details

- (●) Cash
- ( ) Cheque
- ( ) Credit Card

Name
CC #
Expires

	SubTotal	R 801 328.00
Shipping & Handling		
Taxes	SA	R 112 185.92
	TOTAL	R 913 513.92

PAYMENT TERMS: 7 DAYS FROM DATE OF INVOICE

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: AECOM; PROJECT CONSTRACTORS: AFROSTRUCTURES & KLOMAC; SUB-CONTRACTORS: MDIMA CIVILS: PROJECT NAME: COU HIGHLIFT PUMPSTATION: AMOUNT: R2 100 000.00 (VO 008), R1 662 604.30 (VO 016), R2 053 066.72 (VO 020)

ANNEXURE J

Prepared by

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MHLATHUZE WATER
NSEZI CITY OF MHLATHUZE HIGH LIFT PUMPSTATION
VARIATION ORDER

CONTRACT NO : **MW 18/2013 (Incorporating MW/13/2013)**
DESCRIPTION : **Structural, Civil, Mechanical & Electrical Works**
CONTRACTOR : **Afrostructures (Pty) Ltd**
VARIATION ORDER NUMBER : **016**

This variation order shall be regarded as an order in writing in terms of Clause 13 of the FIDIC Yellow Book Conditions of Contract, 1999.

ENGINEER'S EXPLANATION AND DESCRIPTION OF VARIATION:

1. **Reason for Variation: Payment to External Contractor**

Additional Work	[X]	Design Change	[ ]	Specification Change	[ ]
Omitted Work	[ ]	Provisional Sum	[ ]	Additional Resources	[ ]

2. **Requested/instructed by Engineer on:** N/A
3. **Description and Motivation:** Client requires Contractors to advance payment to Isibonelo Construction CC for works carried out at Mhlathuze Water Offices.
4. **Extension of Time Granted:** 0 Calendar Days
5. **Revised Completion Date:** Unchanged - 30 April 2015

ITEM	DESCRIPTION	UNIT	QTY	NEW RATE	AMOUNT OMIT	AMOUNT ADD
New	As per Tax Invoice ISB0899 (Klomac)	No.	1	R801 328.00	R0.00	R801 328.00
New	Handling Fee (1%) (Klomac)	No.	1	R8 013.28	R0.00	R8 013.28
New	As per Tax Invoice ISB0897 (Afrostructures)	No.	1	R805 211.00	R0.00	R805 211.00
New	Handling Fee (1%) (Afrostructures)	No.	1	R8 052 11	R0.00	R8 052.11
TOTAL					-	R1 622 604.30
NET EFFECT ON VALUE OF CONTRACT					-	R0.00

Note:
1. The amount has been agreed, but where dates and times are mentioned, they are not necessarily agreed to.
2. The above rates exclude VAT.
3. No extension of time is due.
4. No additional P&G's or other costs are due.
5. This variation order shall not be subject to price variation.
6. Quantities are re-measurable (where applicable).
7. Invoices are attached.

The expenditure shall be funded from:

Savings on scheduled work	[ ]	**Contingencies allowed**	[X]
Additional funds requested	[ ]	**Provisional sum**	[ ]

APPROVED	APPROVED	ACCEPTED
ENGINEER	EMPLOYER	CONTRACTOR
DATE 21/6/2015	DATE 2015/6/30.	DATE 30/06/2015.

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: AECOM; PROJECT CONSTRACTORS: AFROSTRUCTURES & KLOMAC; SUB-CONTRACTORS: MDIMA CIVILS: PROJECT NAME: COU HIGHLIFT PUMPSTATION: AMOUNT: R2 100 000.00 (VO 008), R1 662 604.30 (VO 016), R2 053 066.72 (VO 020)

ANNEXURE K

Prepared by

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Attorneys & Conveyancers

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AECOM

SITE INSTRUCTION

Project:	Nsezi City of Mhlathuze High-Lift Pumpstation	SI No:	SI/NCOMHLP/110
Contractor:	Afrostructures (Pty) LTD	Date:	30 June 2015
Contract No.:	MW/18/2013 & MW/13/2013	Ref:	J01788-03

Section	N/A	Spec change	N/A	Instruction	Y	Drawing ref. no.	N/A
Item	new	Information	N/A	Day work	N/A	Doc. ref. no.	N/A

Details of Instruction: VO 016 – Payment to External Contractor

See attached variation order, VO 016, for payment to external contractors, Isibonelo Construction CC as per Mhlathuze Water's request.

Note that payment of the variation is to be claimed under the contingencies section of the BoQ (MW/18/2013 and MW/13/2013 as per VO breakdown).

ENGINEER

Issued by: Naufal Khan

Designation: Engineer's Representative

Estimated quantity: N/A

Estimated cost: R 1 622 604.30

CONTRACTOR

Received by: _____ Date: 30/06/2015

Effect on programme: Nil

As-Built drawings affected	Quantities agreed	Costs within Payment Schedule	Action	Date	N/A
N/A	N/A	N/A	To be executed by:	N/A	N/A

COPIES TO:	Contract Manager	Project Manager	Client	Struct	Civil	Mech	Electr	Wet Services	Architect	QS

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: AECOM; PROJECT CONSTRACTORS: AFROSTRUCTURES & KLOMAC; SUB-CONTRACTORS: MDIMA CIVILS: PROJECT NAME: COU HIGHLIFT PUMPSTATION: AMOUNT: R2 100 000.00 (VO 008), R1 662 604.30 (VO 016), R2 053 066.72 (VO 020)

ANNEXURE L

Prepared by

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COMMISSION OF INQUIRY INTO STATE CAPTURE

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Durban, 4034

Unit 11, Hitec Park
7 Ebonyfield Avenue
Springfield Park

KLOMAC CC
fluid engineering
since 1978

www.klomaceng.co.za
VAT # 4440105189 | REG. # 1986/002453/23

MHLATHUZE WATER BOARD
P O BOX 1264
RICHARDS BAY
3900

VAT Number: 4230103352

Statement

Date	30/06/2015
Account Number	MHL002
Amount Due	844 491.64
Terms	30 Days
Page 1 of 1	

Date	Reference	Order No.	Description	Debit	Credit	Balance
01/06/2015			Balance Brought Forward	586 087.08		586 087.08
02/06/2015	INE026485	PO000017081-1	Tax Invoice	17 259.24		603 346.32
02/06/2015	INE026486	PO000016648-1	Tax Invoice	7 131.09		610 477.41
15/06/2015	INE026558		NSEZI MHALTHUZE WAT MW12/2013		291 647.83	318 829.58
24/06/2015	IN026272		Write off		0.05	318 829.53
29/06/2015	BS219/02		M0175		29 856.60	288 972.93
29/06/2015	BS219/03		CHLST		24 390.33	264 582.60
30/06/2015	INE026638		NSEZI MHALTHUZE WAT MW12/2013	368 332.37		632 914.97
30/06/2015	INE026640		NSEZI MHALTHUZE WAT MW12/2013	579 909.04		1 212 824.01
30/06/2015	INE026642		NSEZI MHALTHUZE WAT MW12/2013		368 332.37	844 491.64

BANKING DETAILS

Account Name: KLOMAC ENGINEERING CC
Bank: Nedbank
Account No: 131 402 0803
Branch No: 131 426

120+ Days	90 Days	60 Days	30 Days	Current
0.00	0.00	0.00	264 582.60	579 909.04

Total Due 844 491.64

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: AECOM; PROJECT CONSTRACTORS: AFROSTRUCTURES & KLOMAC; SUB-CONTRACTORS: MDIMA CIVILS: PROJECT NAME: COU HIGHLIFT PUMPSTATION: AMOUNT: R2 100 000.00 (VO 008), R1 662 604.30 (VO 016), R2 053 066.72 (VO 020)

ANNEXURE M

Prepared by

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ISIBONELO CONSTRUCTION CC

CK/1997/051620/23
P O BOX 9553
RICHARDS BAY, 3900 SOUTH AFRICA
Phone: 035 797 5240 Fax : 035 797 3039
email:isibonelo@telkomsa.net

TAX INVOICE
ISB 07987

TAX INVOICE

VAT No. 4030175733

Customer

Name	Mdima Civils
Address	Pinetown
City	Durban Code 4000 ZIP
Vat No.	4610103220

Date	29/09/2015
Order No.	MW 12/2015
Rep	
FOB	

Qty	Description	Unit Price	TOTAL
	Building Block Stores Renovation of carpenters workshop and paint roof leak.	R 816 000.90	

MHLATHUZE WATER
AANBEVEEL — DATUMS 2015/09/30
RECOMMENDED
GOEDGEKEUR
APPROVED — DATES 2015/10/8

Banking details are as follows:
Acc. Name: Isibonelo Construction cc
Bank Name: Standard Bank
Acc. No.:062014803
Branch Code: 057630

	SubTotal	R 816 000.90
	Shipping & Handling	
Taxes	SA	R 114 240.12
	TOTAL	R 930 241.02

Payment Details

- (●) Cash
- ( ) Cheque
- ( ) Credit Card

Name
CC #
Expires

PAYMENT TERMS: 7 DAYS FROM DATE OF INVOICE

SS/NKOSINATHI/123

COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: AECOM; PROJECT CONSTRACTORS: AFROSTRUCTURES & KLOMAC; SUB-CONTRACTORS: MDIMA CIVILS: PROJECT NAME: COU HIGHLIFT PUMPSTATION: AMOUNT: R2 100 000.00 (VO 008), R1 662 604.30 (VO 016), R2 053 066.72 (VO 020)

ANNEXURE N

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

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MHLATHUZE WATER
NSEZI CITY OF MHLATHUZE HIGH LIFT PUMPSTATION
VARIATION ORDER

CONTRACT NO	:	**MW 18/2013 (Incorporating MW/13/2013)**
DESCRIPTION	:	**Structural, Civil, Mechanical & Electrical Works**
CONTRACTOR	:	**Afrostructures (Pty) Ltd**
VARIATION ORDER NUMBER	:	**020**

This variation order shall be regarded as an order in writing in terms of Clause 13 of the FIDIC Yellow Book Conditions of Contract, 1999.

ENGINEER'S EXPLANATION AND DESCRIPTION OF VARIATION:

1. **Reason for Variation: Various (See Descriptions Below).**

Additional Work [X] Design Change [ ] Specification Change [ ]

Omitted Work [ ] Provisional Sum [ ] Additional Resources [ ]

2. **Requested/Instructed by Engineer on:** 12/10/2015
3. **Description and Motivation:** Requested By Client.
4. **Extension of Time Granted:** 0 Calendar Days
5. **Revised Practical Completion Date:** Unchanged - 30 April 2015

ITEM	DESCRIPTION	UNIT	QTY	NEW RATE	AMOUNT OMIT	AMOUNT ADD
New	Mdima - Payment to External Contractor (Isibonelo Construction CC) – Includes 1% Markup	No.	1	R824 160.91	-	R824 160.91
New	Klomac - Supply & Install 29no. Locks (Incl Markup)	No.	1	R26 100.00	-	R26 100.00
New	Mdima – Modifications to Pipework (as per Clients instruction)	No.	1	R538 372.81	-	R538 372.81
New	Klomac – Surge Vessel & DB Installation (as per Clients Instruction)	No.	1	R664 432.00	-	R664 432.00
TOTAL					-	R2 063 065.72
NET EFFECT ON VALUE OF CONTRACT					-	R0.00

Note:
1. The amount has been agreed, but where dates and times are mentioned, they are not necessarily agreed to.
2. The above rates exclude VAT.
3. No extension of time is due.
4. No additional P&G's or other costs are due.
5. This variation order shall not be subject to price variation.
6. Quantities are re-measurable (where applicable).
7. Quotations are attached.

The expenditure shall be funded from:

Savings on scheduled work [X] **Contingencies allowed** [X]

Additional funds requested [ ] **Provisional sum** [ ]

APPROVED	APPROVED	ACCEPTED
ENGINEER	EMPLOYER	CONTRACTOR
DATE 13/10/15	DATE	DATE 15/10/15

SI/MCOM HLP/123

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: AECOM; PROJECT CONSTRACTORS: AFROSTRUCTURES & KLOMAC; SUB-CONTRACTORS: MDIMA CIVILS: PROJECT NAME: COU HIGHLIFT PUMPSTATION: AMOUNT: R2 100 000.00 (VO 008), R1 662 604.30 (VO 016), R2 053 066.72 (VO 020)

ANNEXURE O

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

1003B Salmon Grove Chambers, 407 Anton Lembede Street, Durban, 4001
T (031) 305 7537 F (031) 305 7538
admin@mhlangainc.co.za

REMITTANCE ADVICE

MHLATHUZE WATER

AFROSTRUCTURES (PTY) LTD-T

3 TORLAGE STREET
KWAZULU NATAL
3620

Fax: 0318172626

Private Bag X1047
Richards Bay
KWAZULU NATAL
3900
Telephone **+27 35 902 1000**
Fax:

VAT registration number **4230103352**

ACCOUNT No.	DATE
MW1525	21/07/2015

	TYPE	ITEM	REFERENCE	SETTLEMENT DISCOUNT	AMOUNT	
17/07/2015	Payment	3160		0.00	1 571 723.94	ZAR
			Total		**1 571 723.94**	**ZAR**

Vat No 4230103352 must appear on all invoices for Mhlathuze Water. If it does not appear on the invoice, it is classified as a vat invoice according to legislation and therefore Mhlathuze Water will be unable to pay the invoice

COMMISSION OF INQUIRY INTO STATE CAPTURE

Control list

Mhlathuze Water

Vendor account number	Vendor name	Bank	Routing number	Account number	Debit	Credit	Currency
MW1525	AFROSTRUCTURES (PTY) LTD-T	AFROSTRUCTURES (PTY0 LTD	221626	50810091492	1 571 723,94		ZAR

Currency	Amount
ZAR	1,571,723.94

COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-652

MHLATHUZE WATER CREDITOR'S RECONCILIATION

CREDITORS NAME: AFROSTRUCTURES (PTY) LTD
ADDRESS: P.O.BOX 608
NEW GERMANY
POSTAL CODE: 3620

MHLATHUZE WATER

BALANCE PER STATEMI ;1011202 DATED: 30/06/2015 — R 1 571 723.94

LESS: PAYMENTS NOT CREDITED

DATE	CHEQUE NUMBER	AMOUNT	DETAILS

LESS: INVOICES OUTSTANDING (CERTIFIED COPIES PLEASE)

DATE	INVOICE NUMBER	AMOUNT	DETAILS

LESS: GOODS RETURNED FOR CREDIT (CREDIT NOTES PLEASE)

DATE	GRN/INV NUMBER	AMOUNT	DETAILS

SUB TOTAL — R 1 571 723.94

ADD: INVOICES NOT ON STATEMENT

DATE	INVOICE NUMBER	AMOUNT	DETAILS

ADD: CREDIT NOTES OUTSTANDING

DATE	CREDIT NOTE NO	AMOUNT	DETAILS

OTHE

TOTAL AMOUNT DUE: R 1 571 723.94
LESS: DISCOUNT
NET AMOUNT DUE: R 1 571 723.94

ELECTRONIC TRANSFER EFT DATE: 20/07/2015
OUR CHEQUE NUMBER DATE:

REMARKS: IF YOU HAVE ANY QUERIES PLEASE CONTACT MAYA GOUNDEN
TEL NO: 035-9021112 OR FAX NO: 035-9021106

BATCH NO:

BALANCE AS PER AGE ANALYSIS: R 1 571 723.94
ADD: LESS CURRENT R -
BALANCE AS PER RECONCILIATION: R 1 571 723.94

Prepared by:-
Acc payable Admin
Maya Gounden
Date:- 20/07/15

Payment processed by
1st Authorised signatory
Date 20/07/15

Checked by:-
Snr Acc payable Admin
Irene Chetty
20/07/15

Payment processed by
2nd Authorised signatory
Date:-

Afrostructures (Pty) Ltd

Reg. No. 1995 00340407
VAT No. 4810149767

P.O.Box 608
New Germany
3620

Tel: 031 817 2600
Fax: 031 817 2626
info@afrostructures.co.za

3 Torlage Street
New Germany

STATEMENT

Date 30.06.2015

MHLATHUZE WATER
P.O.BOX 1264
RICHARDS BAY
3900

Acc No. 100644

Vat No. 4230103352

DATE	DOC REFERENCE	TYPE		DUE DATE	AMOUNT
		Balance Brought Forward			544 598.75
06.06.2015	3147	PAYMENT THANK YOU			-544 598.75
25.06.2015	3160	INVOICE			1 571 723.94
				BAL	R 1 571 723.94

90 DAYS & OVER	60 DAYS	30 DAYS	CURRENT
			1 571 723.94

Banking Details.	
Account Holder	Afrostructures (Pty) Ltd
Bank	FNB
Branch Code	221625
Account Number	50810091492
Type	Cheque Account

COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-654

ivate Bag X1047
chards Bay
NAZULU NATAL
)00

FROSTRUCTURES (PTY) LTD-T
TORLAGE STREET
WAZULU NATAL
620

Fax
VAT number 4. 103352

MHLATHUZE WATER

PROCESSED 17 JUL 2015

Delivery Note

Delivery number	3160
Date	17/07/2015
Page	1 of 1
Purchase order	PO000017675
Internal product receipt	00031609_046
Buyer Id	Gloria Madida

equisition	Item number	Item name	Description	Ordered	Unit	Received	Remaining quantity	Purchase price	Net amount
00023407	1482	NS-PP&E - Electricity supply	Afrostructure on the installation of structural, civil, mechenical & Electrical works for the Nsezi CoU high lift pupmstation	1 571 723.94	EACH	1 378 705.21	193 018.73	1.00	1 378 705.21
			Quantity : 1 378 705.21 Warehouse : MO						
									1 378 705.21

RECEIVED 17 JUN 2015

Approval for payment

Originated by : Nqobile Chonco

Authorised by : Mboniseni Majola

Date Approved : 15/7/17

Richards Bay
KWAZULU NATAL
3900

Telephone +27 35 902 1000
Fax
VAT registration number 4230103352

Invoice

Number 3160
Date 7/17/2015
Page Page 1 of 1
Purchase order PO0000017675
Internal number 00040531_047
Payment Net 30 days

AFROSTRUCTURES (PTY) LTD-T

3 TORLAGE STREET
KWAZULU NATAL
3620

Item number	Description	Quantity	Size	Colour	Configuration	Unit	Unit price	Discount percent	Discount	Amount
1482	Afrostructure on the installation of structural, civil, mechanical & Electrical works for the Nsezi CoU high lift pumpstation	1,378,705.21				EACH	1.00	0.00	0.00	1,378,705.21

subtotal amount	Total discount	Charges	VAT	Round-off	Total	Currency
1,378,705.21	0.00	0.00	193,018.73	0.00	1,571,723.94	ZAR

MHLATHUZE WATER

AANBEVEEL RECOMMENDED	DATUMS 2015/07/17
GOEDGEKEUR APPROVED	2015/7/17 DATES

PROCESSED
17 JUL 2015

POSTED
17 JUN 2015

COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-656

TAX INVOICE No. 3160

AFROSTRUCTURES (PTY) LTD

VAT REG. NO. 4810149767

REG. No. 1995/003404/07

CIVIL ENGINEERING CONTRACTORS

3 TORLAGE STREET
NEW GERMANY 3600

P.O. BOX 608
NEW GERMANY
3620
TEL: 031 817 2600
FAX: 031 817 2626

M MHLATHUZE WATER
P.O.BOX 1264
RICHARDS BAY, 3900

Contract Name MHLATHUZE PUMPSTATION
Contract No.: MW118/2013
Customer VAT No.: 4230103352
Customer Ref: 100644
Date: 25-06-2015

Description	Unit	Qty.	Rate	Total
AMOUNT DUE AS PER CLAIM 15				1378 705 21

MHLATHUZE WATER
RECEPTION
14-07-2015

MHLATHUZE WATER
AANBEVEEL / RECOMMENDED / GOEDGEKEUR / APPROVED
DATUMS / DATES: 2015/07/17

PROCESSED 17 JUN 2015

PROCESSED 17 JUL 2015

BANKING DETAILS:
Bank: FNB
Branch: 221626
Acc. No.: 508 1009 1492

TERMS STRICTLY 30 DAYS NETT

E.&O.E.

SUB TOTAL	1378 705 21
VAT	193 018 73
TOTAL R	1571 723 94

DD34-DCM-657

TAX INVOICE No 8160

PR 234

AFROSTRUCTURES (PTY) LTD

CIVIL ENGINEERING CONTRACTORS

VAT REG. NO: 4810149767

REG. No. 1995/003484/07

3 TORLAGE STREET
NEW GERMANY 3600

P.O. BOX 608
NEW GERMANY
3620
TEL: 031 817 2600
FAX: 031 817 2626

M MHLATHUZE WATER
P O BOX 1264
RICHARDS BAY, 3900

Contract Name MHLATHUZE PUMPSTATION

Contract No.: MW/18/2013

Customer VAT No.: 4230103352

Customer Ref: 100644

Date: 25 - 06 - 2015

Description	Unit	Qty	Rate	Total	
AMOUNT DUE AS PER CLAIM 15				1378 705	21

MHLATHUZE WATER

AANBEVEEL / RECOMMENDED: DATUMS / DATES 2015/07/01

GOEDGEKEUR / APPROVED: DATES 2015/7/1

BANKING DETAILS:
Bank: FNB
Branch: 221626
Acc. No.: 508 1009 1492

TERMS STRICTLY 30 DAYS NETT

E.&O.E.

SUB TOTAL	1378 705	21
VAT	193 018	73
TOTAL R	1571 723	94

002

AECOM

AECOM SA (Pty) Ltd
Richards Bay:
Unit 5, 68 Dollar Drive
Alton, Richards Bay,3900
P O Box 748, Richards Bay,3900
www.aecom.com

+27 (0) 35 789 7602 tel
+27 (0) 35 789 5669 fax

Our Reference: J01788-03-MW/18/2013

01 July 2015

MHLATHUZE WATER
Ms A. Ngwane
Private Bag X 1047
Richards Bay
3900

Dear Madam

Tender MW/18/2013 (incorporating MW/13/2013) - Payment Certificate No. 15a

Kindly find enclosed for your attention, the certified Payment Certificate No. 15a, received from the Contractors (Afrostructures only), in the amount of **R2 112 154.00 (incl. VAT).**

We herewith confirm that the quantities claimed are completed and work is carried out to specification to the best of our knowledge.

Yours sincerely,

pp.

K. Sparks Pr (Eng) Pr CPM
For AECOM SA (Pty) Ltd

COMMISSION OF INQUIRY INTO STATE CAPTURE

CERTIFICATE OF PAYMENT

SERVICES RENDERED/CONTRACT NAME		FIRM/CONTRACTOR
Installation of Structural, Civil, Mechanical & Electrical Works For The Nsezi City Of Mhlathuze High Lift Pumpstation		Afrostructures (Pty) Ltd PO Box 608 New Germany, 3620
REFERENCE No.	**AUTHORITY**	**CERTIFICATE No. & DATE**
MW/18/2013 MW/13/2013		15a (Afrostructures Only) 01-Jul-15

	MW/18/2013
CONTRACT AMOUNTS	
Nett Contract amount (Award)	R 21 745 267.68
Contingencies	R 3 261 790.18
Escalation	R -
Contract Price Adjustment	R 2 500 705.81
Sub Total	R 27 507 763.67
Value Added Tax	R 3 851 086.94
Contract Amounts	R 31 358 850.81
Retention Limit (7.5%)	R 1 630 895.09
EXPENDITURE	
Value Of Contract Work Measured To Date	R 21 657 630.54
VO / EWO	R 6 061 802.42
Contract Price Adjustment	R 1 037 534.03
Sub Total 1: Value Of All Work Done To Date	R 28 756 966.98
Less Retention = 10%	R 1 630 895.09
Sub Total 2	R 27 126 071.89
Plus 80% Off Value Of Materials On Site (excl. VAT)	R -
Sub Total 3:	R 27 126 071.89
Less Penalties	R -
Sub Total 4:	R 27 126 071.89
Less Discount:	R -
Sub Total 5: Amount Payable To Date	R 27 126 071.89
Less: Previous Amount Payable	R 25 273 305.22
Amount Payable For This Certificate	R 1 852 766.67
14% VAT	R 259 387.33
Amount This Certificate	R 2 112 154.00

Invoice Breakdown MW/18/2013 (Including VAT)

Afrostructures	R	1 571 723.94
Temoso Civils	R	415 017.59
Bavelile Trading	R	125 412.47
Measured Work against Advanced Payment	R	-
Total	R	2 112 154.00

Advanced Payment Figures (Incl. VAT)*

Contractor	Amount Received	Measured Work
Afrostructures	R 8 200 000.00	R 8 200 000.00
Temoso Civils	R 800 000.00	R 800 000.00
Bavelile Trading	R 300 000.00	R 300 000.00
Totals	R 9 300 000.00	R 9 300 000.00
Balance Owing	R 0.00	

NB: VAT certificate must accompany this certificate
* Advanced Payments made by the Client without the Engineer's authorisation.

I hereby certify that the value of the materials delivered and/or work performed by the abovementioned firm/contractor on the site of the above works and the amount payable to the said firm/contractor is correct, subject to the stipulations of the relevant contracts.

ENGINEER

Signature

01/07/15
Date

MHLATHUZE WATER

Signature

2015/07/01
Date

AECOM MHLATHUZE WATER AFROSTRUCTURES (PTY) LTD. KLOMAC

MHLATHUZE WATER

CONTRACT NO. MW/18/2013
(INCORPORATING MW/13/2013)

INSTALLATION OF STRUCTURAL, CIVIL, MECHANICAL & ELECTRICAL WORKS FOR THE NSEZI CITY OF MHLATHUZE HIGH LIFT PUMPSTATION

PAYMENT CERTIFICATE NO. 15a
JUNE 2015

(Afrostructures Only)

COMMISSION OF INQUIRY INTO STATE CAPTURE

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COMMISSION OF INQUIRY INTO STATE CAPTURE

MHLATHUZE WATER
CONTRACT No: MW/18/2013, INSTALLATION OF STRUCTURAL & CIVIL WORKS FOR THE NSEZI CITY OF MHLATHUZE HIGH LIFT PUMPSTATION
CERTIFICATE NO: 15

AFROSTRUCTURES (PTY) LTD

CONTRACTOR :	AFROSTRUCTURES (PTY) LTD PO BOX 608 NEW GERMANY 3620 Tel : 031 - 817 2600 Fax.No : 031 - 817 2626
Starting Date	: 28 February 2014
Completion Date	: 30 March 2015
Tender Amount	: R 31 358 850.61
CONSULTANT :	AECOM CONSULTANTS P.O.BOX 748 Richards Bay 3900 Tel : 035 789 7602 Fax No. 035 789 5589

SUMMARY OF PAYMENTS

Date	Cert No.	Period From	Period To	Amount Payable excl. VAT	VAT Amount	Amount Payable incl. VAT	Cumulative Amount incl. VAT
March 25, 2014	1	28-Feb-2014	20-Mar-2014	R 1 192 844.67	R 166 970.28	R 1 359 815.15	R 1 359 815.15
April 25, 2014	2	21-Mar-2014	20-Apr-2014	R 933 142.00	R 130 639.88	R 1 063 781.87	R 2 423 397.03
May 25, 2014	3	21-Apr-2014	20-May-2014	R 668 080.89	R 93 531.32	R 761 612.21	R 3 185 009.24
June 25, 2014	4	21-May-2014	20-Jun-2014	R 3 243 345.81	R 454 068.41	R 3 697 414.22	R 6 882 423.46
July 25, 2014	5	21-Jun-2014	20-Jul-2014	R 885 464.85	R 123 965.05	R 1 009 429.70	R 7 891 853.16
August 25, 2014	5	21-Jul-2014	20-Aug-2014	R 1 324 358.53	R 185 410.19	R 1 509 768.73	R 9 401 621.89

SCHEDULE	DESCRIPTION	AMOUNT PREVIOUS	AMOUNT CURRENT	AMOUNT TOTAL
PART 1	PRELIMINARIES & GENERAL	R 7 266 226.95	R 39 285.41	R 7 305 512.36
PART 2	EXCAVATION	R 4 481 825.30	R 527 056.00	R 5 008 681.30
PART 3	CIVIL WORKS	R 491 242.88	R 134 928.89	R 626 171.77
PART 4	STRUCTURAL WORKS	R 7 487 191.25	R 73 231.76	R 7 560 423.01
PART 5	BUILDING WORKS	R 882 395.93	R 237 804.77	R 1 120 200.70
PART 6	DAYWORKS	R 36 641.40	R -	R 36 641.40
PART 7	CONTINGENCY	R 5 256 591.42	R 805 211.00	R 6 061 802.42
PART 8.	CONTRACT PRICE ADJUSTMENT	R 967 960.28	R 49 573.75	R 1 037 534.03
	SUB - TOTAL	R 26 889 975.40	R 1 867 091.58	R 28 756 966.98
Retention Limit 7.5% R 1 630 895.09	LESS : RETENTION(10%)	R 1 630 895.09	R -	R 1 630 895.09
	SUB-TOTAL	R 25 258 980.31	R 1 867 091.58	R 27 126 071.89
	ADD : MATERIAL ON SITE 80%	R -	R -	R -
	SUB-TOTAL	R 25 258 980.31	R 1 867 091.58	R 27 126 071.89
	LESS PREVIOUSLY PAID	(correction from certificate 14 dayworks Previous paid figure incorrect - add R 14 324.81)		R 25 273 305.22
	SUB-TOTAL			R 1 852 766.67
	PLUS VAT			R 259 387.38
	AMOUNT NOW DUE	CERTIFICATE NO. 15		R 2 112 154.00

COMPILED BY CONTRACTOR : Richard Long — DATE : 30/06/2015.

VERIFIED BY ENGINEER'S REPRESENTATIVE : Naufal Khan — DATE : 30/06/2015

APPROVED BY ENGINEER : Kelvin Sparks — DATE: 01/07/2015

CONTRACT NO.: MW/18/2013					
ITEM NO.	DESCRIPTION	Billed AMOUNT (R)	Previously Claimed AMOUNT (R)	This Claim AMOUNT (R)	Total Claimed AMOUNT (R)
1	PRELIMINARIES AND GENERAL	R 7 354 511.00	R 7 266 226.95	R 39 285.41	R 7 305 512.36
2	EXCAVATION	R 5 000 667.25	R 4 481 625.30	R 527 056.00	R 5 008 681.30
3	CIVIL WORKS	R 899 615.95	R 491 242.88	R 134 928.89	R 626 171.77
4	STRUCTURAL WORKS	R 7 140 321.83	R 7 487 191.25	R 73 231.76	R 7 560 423.01
5	BUILDING WORKS	R 1 078 791.84	R 882 395.93	R 237 804.77	R 1 120 200.70
6	DAYWORKS	R 271 360.00	R 36 641.40	R 0.00	R 36 641.40
7	SUBTOTAL	R 21 745 267.88	R 20 645 323.71	R 1 012 306.83	R 21 657 630.54
8	CONTIGENCY (15%)	R 3 261 790.18	R 5 256 591.42	R 805 211.00	R 6 061 802.42
9	SUBTOTAL	R 25 007 058.06	R 25 901 915.12	R 1 817 517.83	R 27 719 432.95
10	Contract Price Adjustment (CPA)	R 2 500 705.81	R 987 960.28	R 49 573.75	R 1 037 534.03
11	SUBTOTAL	R 27 507 763.87	R 26 889 875.40	R 1 867 091.58	R 28 756 966.98
12	VAT (14%)	R 3 851 086.94	R 3 764 582.56	R 261 392.82	R 4 025 975.38
GRAND TOTAL		R 31 358 850.81	R 30 654 457.96	R 2 128 484.40	R 32 782 942.36

COMMISSION OF INQUIRY STATE CAPTURE

CONTRACT NO.: MW/18/2013					Billed		Claimed Previously		This Claim		Totalled Claimed	
ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
1	1200A	PRELIMINARY AND GENERAL										
	8.3	SCHEDULED FIXED-CHARGE AND VALUE-RELATED ITEMS										
1.1	8.3.1	Contractual Requirements	Sum	1	R 808 647.02	R 808 647.02	1	R 808 647.02	0.00	R 0.00	1.00	R 808 647.02
1.2	8.3.2.1	Facilities for the Engineer										
1.2.1		a) Furnished office in accordance with the requirements set out in PSAB.	Sum	1		R 0.00		R 0.00		R 0.00	0.00	R 0.00
1.2.2		c) Nameboards (2 No.)	Sum	2		R 0.00		R 0.00		R 0.00	0.00	R 0.00
1.2.3	PSA 8.3.2.1(d)	d) Carports (1 No.)	Sum	1		R 0.00		R 0.00		R 0.00	0.00	R 0.00
1.3	PSA 8.3.2.2	Facilities for the Contractor										
1.3.1		a) Offices and Storage Sheds	Sum	1		R 0.00		R 0.00		R 0.00	0.00	R 0.00
1.3.2		b) Workshops	Sum	1		R 0.00		R 0.00		R 0.00	0.00	R 0.00
1.3.3		c) Laboratories	Sum	1		R 0.00		R 0.00		R 0.00	0.00	R 0.00
1.3.4		d) Living Accommodation	Sum	1		R 0.00		R 0.00		R 0.00	0.00	R 0.00
1.3.5		f) Tools and Equipment	Sum	1		R 0.00		R 0.00		R 0.00	0.00	R 0.00
1.3.6		g) Communication	Sum	1		R 0.00		R 0.00		R 0.00	0.00	R 0.00
1.3.7		h) Dealing with Water	Sum	1		R 0.00		R 0.00		R 0.00	0.00	R 0.00
1.3.8		i) Access	Sum	1		R 0.00		R 0.00		R 0.00	0.00	R 0.00
1.3.9		k) Security	Sum	1		R 0.00		R 0.00		R 0.00	0.00	R 0.00
1.4	PSA 8.3.3	Other fixed-charge obligations	Sum	1		R 0.00		R 0.00		R 0.00	0.00	R 0.00
SUBTOTAL CARRIED FORWARD:						R 808 647.02		R 808 647.02		R 0.00		R 808 647.02

COMMISSION OF INQUIRY INTO STATE CAPTURE

CONTRACT NO.: MW 18/2013

ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 808 647.02		R 808 647.02		R 0.00		R 808 647.02
	1200A 8.4	SCHEDULED TIME-RELATED ITEMS										
1.5	8.4.1	Contractual Requirements	Sum	1	R 4 528 129.59	R 4 528 129.59	1.00	R 4 528 129.59	0.00	R 0.00	1.00	R 4 528 129.59
1.6	PSA 8.4.2.1	Facilities for the Engineer										
1.6.1		a) Furnished office in accordance with the requirements set out in PSAB.	Sum	1		R 0.00	0	R 0.00		R 0.00	0.00	R 0.00
1.6.2		c) Nameboards (2 No.)	Sum	1		R 0.00	0	R 0.00		R 0.00	0.00	R 0.00
1.6.3		e) Carports (1 No.)	Sum	1		R 0.00	0	R 0.00		R 0.00	0.00	R 0.00
1.6.4		f) Survey Instruments	Sum	1		R 0.00	0	R 0.00		R 0.00	0.00	R 0.00
1.7	PSA 8.4.2.2	Facilities for the Contractor										
1.7.1		a) Offices and Storage Sheds	Sum	1		R 0.00	0	R 0.00		R 0.00	0.00	R 0.00
1.7.2		b) Workshops	Sum	1		R 0.00	0	R 0.00		R 0.00	0.00	R 0.00
1.7.3		c) Laboratories	Sum	1		R 0.00	0	R 0.00		R 0.00	0.00	R 0.00
1.7.4		d) Living Accommodation	Sum	1		R 0.00	0	R 0.00		R 0.00	0.00	R 0.00
1.7.5		f) Tools and Equipment	Sum	1		R 0.00	0	R 0.00		R 0.00	0.00	R 0.00
1.7.6		g) Communication	Sum	1		R 0.00	0	R 0.00		R 0.00	0.00	R 0.00
1.7.7		h) Dealing with Water	Sum	1		R 0.00	0	R 0.00		R 0.00	0.00	R 0.00
1.7.8		i) Access	Sum	1		R 0.00	0	R 0.00		R 0.00	0.00	R 0.00
1.7.9		k) Security	Sum	1		R 0.00	0	R 0.00		R 0.00	0.00	R 0.00
1.8	1200A 8.4.3	Supervision for the Duration of the Contract	Sum	1		R 0.00	0	R 0.00		R 0.00	0.00	R 0.00
1.9	8.4.4	Company and Head Office Overhead Costs for the Duration of Contract	Sum	1		R 0.00	0	R 0.00		R 0.00	0.00	R 0.00
1.10	PSA 8.4.5	Technical Co-ordination Meetings and Progress Reports	Month	13		R 0.00	0	R 0.00		R 0.00	0.00	R 0.00
SUBTOTAL CARRIED FORWARD:						R 5 336 776.61		R 5 336 776.61		R 0.00		R 5 336 776.61

COMMISSION OF INQUIRY STATE CAPTURE

CONTRACT NO.: MW 18/2013												
ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 5 336 776.61		R 5 336 776.61		R 0.00		R 5 336 776.61
1.11	PSA 8.4.6	Contractors Co-ordination Meetings	Sum	1		R 0.00		R 0.00		R 0.00	0.00	R 0.00
	PSA 8.5	SUMS STATED PROVISIONALLY BY THE ENGINEER										
1.12	PSA 8.5.1	Works Executed by the Contractor										
1.12.1		a) Provisional Sum for additional tests ordered by Engineer	Prov. Sum		R 0.00	R 50 000.00	0.06	R 2 815.00	0.00	R 0.00	0.06	R 2 815.00
1.12.2		% Mark up on Item a) above	%	0.15	R 50 000.00	R 7 500.00	0.06	R 422.25	0.00	R 0.00	0.06	R 422.25
1.13	PSA 8.5.2	Works Executed by Nominated Subcontractors										
1.13.1		a) Work to be executed by the Mechanical and Electrical Subcontractor	Prov. Sum		R 0.00	R 0.00	0	R 0.00		R 0.00	0.00	R 0.00
1.13.2		% Mark up for overheads, control, management and attendance, charges and profit on Item a) above	%	0.005	45 446 878.29	R 227 234.39	0.830	R 188 628.74	0.094	R 21 371.26	0.924	R 210 000.00
1.14	1200A 8.6	PRIME COST ITEMS										
1.14.1		a) Living Accommodation for the Resident Engineer and Engineer's other representatives on site (Provisional)	PC Sum	1	R 150 000.00	R 150 000.00	1.031	R 154 584.35	0.119	R 17 914.15	1.150	R 172 498.50
1.15	1200A 8.8	TEMPORARY WORKS										
1.15.1	PSA 8.8.3	Protection of the existing 6000m3 water reservoir until Construction in Vicinity is complete	Sum	1	R 250 000.00	R 250 000.00	1.00	R 250 000.00	0.00	R 0.00	1.00	R 250 000.00
1.15.2		Protection of the existing 1200mm diameter bypass pipeline adjacent to 6000m3 water reservoir until Construction in Vicinity is complete	Sum	1	R 100 000.00	R 100 000.00	1.00	R 100 000.00	0.00	R 0.00	1.00	R 100 000.00
1.15.3	PSA 8.8.6	Special Water Control	Sum	1	R 500 000.00	R 500 000.00	1.00	R 500 000.00	0.00	R 0.00	1.00	R 500 000.00
SUBTOTAL CARRIED FORWARD:						R 6 621 511.00		R 6 533 226.95		R 39 285.41		R 6 572 512.36

DD34-DCM-666

CONTRACT NO.: MW 18/2013												
ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 6 621 511.00		R 6 533 226.95		R 39 285.41		R 6 572 512.36
1.16	PSA 8.9	DIMENSIONAL VERIFICATION										
1.16.1	PSA 8.9.1	Dimensional verification	Sum	1	R 0.00	R 0.00	0.00	R 0.00	0.00	R 0.00	0.00	R 0.00
1.17	PSA 8.10	TIE - INS										
1.17.1	PSA 8.10.1	Suction side Tie-In	Sum	1	R 150 000.00	R 150 000.00	1	R 150 000.00	0.00	R 0.00	1.00	R 150 000.00
1.17.2	PSA 8.10.2	Delivery side Tie-In	Sum	1	R 150 000.00	R 150 000.00	1	R 150 000.00	0.00	R 0.00	1.00	R 150 000.00
1.17.3	PSA 8.10.3	Check Valve and Isolation Valve Tie-In at Municipal Stores in accordance with drawing number 18-148	Sum	1	R 150 000.00	R 150 000.00	1	R 150 000.00	0.00	R 0.00	1.00	R 150 000.00
1.18	PSA 8.11	Environmental Requirements										
1.18.1		a) The Nseel WTW - site of the new pumpstation	Sum	1		R 0.00		R 0.00		R 0.00	0.00	R 0.00
1.18.2		b) The Rising Main pipeline - refurbishment works	Sum	1		R 0.00		R 0.00		R 0.00	0.00	R 0.00
1.19	PSA 8.12	As-Built Data for the Complete Works	Sum	1		R 0.00		R 0.00		R 0.00	0.00	R 0.00
1.20	POHA	HEALTH AND SAFETY										
1.20.1		The requirements by the Contractor in terms of the Act for the duration of the Contract	Months	13	R 21 000.00	R 273 000.00	13	R 273 000.00	0.00	R 0.00	13.00	R 273 000.00
1.20.2		Compilation of a Health and Safety Plan	Sum	1	R 10 000.00	R 10 000.00	1	R 10 000.00	0.00	R 0.00	1.00	R 10 000.00
SUBTOTAL P&G CARRIED FORWARD TO SUMMARY:						R 7 354 511.00		R 7 266 226.95		R 39 285.41		R 7 305 512.36

COMMISSION OF INQUIRY STATE CAPTURE

DD34-DCM-667

CONTRACT NO.: MW/18/2013					Billed		Previously Claimed		This Claim		Total Claimed	
ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
2		**EXCAVATIONS**										
2.1	SABS 1200 C	**SITE CLEARANCE**										
2.1.1	8.2.1	Clear and grub	ha	0.07	R 25 283.98	R 1 769.88	0.1101	R 2 783.77	0	R 0.00	0.1101	R 2 783.77
2.1.2	8.2.8	Demolish or dismantle(for re-use) and remove structures/ buildings and dismatle steelwork. etc and either	Sum	1	R 9 028.75	R 9 028.75	1	R 9 028.75	0	R 0.00	1	R 9 028.75
2.1.2.1	PSC 8.2.9	(a)Transport to Umhlathuze Water	ton.km	14	R 54.26	R 759.64	0	R 0.00		R 0.00	0	R 0.00
2.1.2.2	PSC 8.2.9	(b) Dispose of in municipal landfill site	ton.km	14	R 54.26	R 759.64	0	R 0.00		R 0.00	0	R 0.00
2.1.3	8.2.10	Remove topsoil to nominal depth of 150mm and stockpile	m^2	102	R 8.62	R 879.24	1101	R 9 490.62	0	R 0.00	1101	R 9 490.62
2.2		**PART 2.2: EARTHWORKS FOR PLATFORM**										
	SABS 1200 D	**EARTHWORKS**										
	8.3.2	Bulk excavation										
		(a) Excavate in all materials and use for embankment or backfill or dispose, as ordered										
2.2.1		1) Cut to fill	m^3	204	R 75.53	R 15 408.12		R 0.00		R 0.00	0	R 0.00
2.3		**PART 2.3: EARTHWORKS FOR PUMP STATION**										
	SABS 1200 D	**EARTHWORKS**										
	8.3.2	Bulk excavation										
		(a) Excavate in all materials and use for embankment or backfill or dispose, as ordered										
2.3.1		1) Excavate for structures	m^3	4 179	R 93.09	R 389 023.11	4464.22	R 415 574.24	0	R 0.00	4464.22	R 415 574.24
		b) Extra-over for										
2.3.2		2) hard rock excavation	m^3	62	R 82.08	R 5 088.96	0	R 0.00		R 0.00	0	R 0.00
	8.3.5	Extra Excavation in all Materials to Provide Working Space around Structure										
2.3.3		1) Foundations / footings and walls	m^2	714	R 93.09	R 66 466.26	621.4	R 57 846.13	0	R 0.00	621.4	R 57 846.13
SUBTOTAL CARRIED FORWARD:						R 489 183.60		R 494 723.50		R 0.00		R 494 723.50

COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-668

CONTRACT NO.: MW 18/2013

ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 489 183.60		R 494 723.50		R 0.00		R 494 723.50
2.4		PART 2.4 EARTHWORKS FOR PIPE TRENCHES/CHAMBERS										
	SABS 1200 D	EARTHWORKS										
	8.3.2	Bulk excavation										
2.4.1		(a) Excavate in all materials and use for embankment or backfill or dispose, as ordered										
2.4.1.1	8.3.2	1) For air valve, meter and delivery tie-in chambers on pump station delivery, as per the drawings	m³	152	R 149.31	R 22 695.12	374.32	R 55 889.72	0	R 0.00	374.32	R 55 889.72
		b) Extra-over for										
2.4.1.2		2) hard rock excavation	m³	4	R 82.08	R 328.32		R 0.00		R 0.00	0	R 0.00
	8.3.3	Restricted excavation										
2.4.2		(a) Excavate in all materials and use for embankment or backfill or dispose, as ordered										
2.4.2.1	PSD 8.3.3	1) For reservoir tie-in chamber, and secondary pump chamber (beneath loading bay) as per drawings	m³	518	R 149.31	R 77 342.58	538.56	R 80 412.39	0	R 0.00	538.56	R 80 412.39
		b) Extra-over for										
2.4.2.2		2) hard rock excavation	m³	10	R 82.08	R 820.80		R 0.00		R 0.00	0	R 0.00
		c) Extra-over for										
2.4.2.3	8.3.3.a	1) hard excavation	m³	9	R 192.19	R 1 729.71	55.8	R 10 724.20	0	R 0.00	55.8	R 10 724.20
	8.3.5	Extra Excavation in all Materials to Provide Working Space around Structure										
2.4.3		1) Foundations / footings	m²	256	R 38.43	R 9 838.08	137.96	R 5 301.80	0.00	R 0.00	137.96	R 5 301.80
	8.3.7	Additional Lateral Support										
2.4.4	PSD 8.3.7	a) Design and supply by contractor as per drawing 04-130, for pipe trench and chamber excavations from reservoir tie-in to underside of loading bay	sum	1	R 825 000.00	R 825 000.00	1	R 825 000.00	0	R 0.00	1	R 825 000.00
2.4.5		b) Design and supply by contractor as per drawing 18-141, for pipe trench and chamber excavations for delivery manifold to delivery tie-in chamber	sum	1	R 110 000.00	R 110 000.00	0.8	R 88 000.00	0	R 0.00	0.8	R 88 000.00
SUBTOTAL CARRIED FORWARD:						R 1 536 938.21		R 1 560 051.62		R 0.00		R 1 560 051.62

SOUTH AFRICAN COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-669

CONTRACT NO.: MW 18/2013												
ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 1 536 938.21		R 1 560 051.62		R 0.00		R 1 560 051.62
2.4.6		c) Design and supply by contractor as per drawing 18-148, for pipe trench and chamber excavations for Municipal Tie-in Chamber (320)	sum	1	R 110 000.00	R 110 000.00		R 0.00		R 0.00	0	R 0.00
2.5		**PART 2.5: EARTHWORKS FOR BASES AND FOOTINGS AND SUMPS**										
	SABS 1200 D	EARTHWORKS										
	8.3.3	Restricted Excavation										
		a) Excavate for restricted foundations, footings and pipe trenches in all materials and use for backfilling or embankment or dispose										
2.5.1		1) Sumps in building and for chambers	m^3	68	R 115.86	R 7 878.48	18.39	R 2 130.67	0	R 0.00	18.39	R 2 130.67
2.5.2		2) Surface beds	m^3	21	R 115.86	R 2 433.06	139.85	R 16 203.02	0	R 0.00	139.85	R 16 203.02
2.5.3		3) Drainage channel in main pump well and secondary pump chamber	m^3	54	R 115.86	R 6 256.44		R 0.00		R 0.00	0	R 0.00
		b) Extra-over for										
2.5.4		2) Hard rock excavation	m^3	0.89	R 82.08	R 73.05		R 0.00		R 0.00	0	R 0.00
	8.3.4	Importing of Materials										
		Extra Over 8.3.2 for importation of materials from Commercial sources or from borrow pits										
2.5.5		a) G5 compacted to 93% Mod Aashto Density in 6 x 150mm layers	m^3	19.2	R 428.66	R 8 230.27	43.03	R 18 445.24	0	R 0.00	43.03	R 18 445.24
2.5.6		b) G7 compacted to 95% Mod Aashto Density 150mm	m^3	2.5	R 428.66	R 1 071.65	2.85	R 1 221.58	0	R 0.00	2.85	R 1 221.58
2.5.7		c) G2 compacte to 98% Mod Aashto Density 150mm	m^3	2.5	R 691.93	R 1 729.83	64.58	R 44 684.84	0	R 0.00	64.58	R 44 684.84
	8.3.5	Extra Excavation in all Materials to Provide Working Space around Structure										
2.5.8		1) Foundations / footings	m^2	90	R 38.43	R 3 458.70		R 0.00		R 0.00	0	R 0.00
SUBTOTAL CARRIED FORWARD:						R 1 678 069.69		R 1 642 737.07		R 0.00		R 1 642 737.07

COMMISSION OF INQUIRY SOUTH AFRICA STATE CAPTURE

DD34-DCM-670

CONTRACT NO.: MW 18/2013												
ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 1 678 069.69		R 1 642 737.07		R 0.00		R 1 642 737.07
2.6		PART 2.6: EARTHWORKS FOR PIPE TRENCHES										
2.6.1		a) Clear vegetation and grub trees of girth up to 1 m. 4 m wide	m	2	R 20.23	R 40.46	3	R 60.69	0	R 0.00	3	R 60.69
2.6.2		c) Remove topsoil, 150 mm, stockpile and re-lastate	m^2	407	R 8.59	R 3 496.13	41.8	R 359.06	0	R 0.00	41.8	R 359.06
2.6.3	8.3.2	a) Excavation in all materials for trenches, backfill, compact to 90% MOD AASHTO at optimum moisture content (98% in non-cohesive soils) and dispose of all surplus material. Rates to include for compaction testing, and screening of excavated material for use as bedding, as per the specifications, and dealing with water from all sources (including reservoir leaking), and supporting of existing pipes and structures, as per the specifications										
2.6.3.1		(1) Conventional Methods (Mechanical Excavation) for pipes from 125 to 700 ND										
2.6.3.1.1		i) Length of a single pipe trench not exceeding a maximum of 1.0 m in depth	m	13	R 243.22	R 3 161.86		R 0.00		R 0.00	0	R 0.00
2.6.3.1.2		ii) Length of a single pipe trench exceeding 1.0 m but not 2.0 m in depth	m	2	R 422.68	R 845.36		R 0.00		R 0.00	0	R 0.00
2.6.3.2		(2) Conventional method (Mechanical Excavation) for pipes from 700 to 1000 ND										
2.6.3.2.1		i) Length of a single pipe trench not exceeding a maximum of 1.0 m in depth	m	2	R 3 157.66	R 5 683.79		R 0.00		R 0.00	0	R 0.00
2.6.3.2.2		ii) Length of a single pipe trench exceeding 1.0 m but not 2.0 m in depth	m	5	R 3 157.66	R 15 788.30	19.3	R 60 942.84	0	R 0.00	19.3	R 60 942.84
2.6.3.2.3		iii) Length of a single pipe trench exceeding 2.0 m but not 3.0 m in depth	m	15	R 29 215.78	R 438 236.70	33.7	R 984 571.79	0	R 0.00	33.7	R 984 571.79
SUBTOTAL CARRIED FORWARD:						R 2 145 312.28		R 2 688 671.44		R 0.00		R 2 688 671.44

DD34-DCM-671

CONTRACT NO.: MW 18/2013

ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 2 145 322.28		R 2 688 671.44		R 0.00		R 2 688 671.44
2.6.3.2.6		vi) Length of a single pipe trench exceeding 5.0 m but not 6.0 m in depth	m	8	R 36 568.39	R 292 547.12	14	R 511 957.46	0	R 0.00	14	R 511 957.46
2.6.3.2.7		vii) Length of a single pipe trench exceeding 6.0 m but not 7.0 m in depth	m	33	R 51 552.59	R 1 701 235.47	14.1	R 726 891.52	0	R 0.00	14.1	R 726 891.52
2.6.3.3		(3) Conventional method (Mechanical Excavation) for pipes from 1000 to 2000 ND										
2.6.3.3.1		i) Length of a single pipe trench not exceeding a maximum of 1.0 m in depth	m	3	R 3 609.29	R 10 827.87		R 0.00		R 0.00	0	R 0.00
2.6.3.3.2		ii) Length of a single pipe trench exceeding 1.0 m but not 2.0 m in depth	m	3	R 3 609.29	R 10 827.87		R 0.00		R 0.00	0	R 0.00
2.6.3.3.3		iii) Length of a single pipe trench exceeding 2.0 m but not 3.0 m in depth (provisional)	m	5	R 29 369.73	R 146 848.65	12.95	R 380 338.00	0	R 0.00	12.95	R 380 338.00
	PSDB - 8.3.2	(b) Extra - over item (a)										
2.6.4		(2) Hard rock excavation (including in road reserves and restricted areas, provisional)	m^3	10	R 156.67	R 1 566.70		R 0.00		R 0.00	0	R 0.00
2.6.4.1	PSDB - 8.3.2	(c) Excavate and dispose of unsuitable material from trench bottom (provisional)	m^3	20	R 140.17	R 2 803.40		R 0.00		R 0.00	0	R 0.00
2.6.5	8.3.3	Excavation Ancillaries										
	PSDB - 8.3.2	Make up deficiencies in backfill material, only with written consent from Engineer (provisional)										
2.6.5.1		(a) From other necessary excavations on site	m^3	396	R 47.18	R 18 683.28		R 0.00		R 0.00	0	R 0.00
2.6.5.2		(b) By importation of commercial or off - site sources selected by the contractor										
SUBTOTAL CARRIED FORWARD:						R 4 330 662.64		R 4 307 858.42		R 0.00		R 4 307 858.42

COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-672

CONTRACT NO.: MW 18/2013												
ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 4 330 662.64		R 4 307 858.42		R 0.00		R 4 307 858.42
2.6.5.2.1		1) Hand Packed Rock (Provisional)	m^3	78	R 496.68	R 38 741.04		R 0.00		R 0.00	0	R 0.00
2.6.5.2.2		2) Dump rock (Provisional)	m^3	78	R 496.68	R 38 741.04	30.8	R 15 297.74	0	R 0.00	30.8	R 15 297.74
2.6.6	8.3.3.3	Compaction in road reserves according to the drawings and specifications	m^2	73	R 97.08	R 7 086.84		R 0.00		R 0.00	0	R 0.00
2.6.7	SANS 1200DB	SHORING										
	8.3.4	Shore trench opposite structure or service										
		(a) for pipes from 125 - 700 ND										
2.6.7.1		1) length of a single pipe trench exceeding 2.0 m but not 3.0 m in depth	m	2	R 2 750.00	R 5 500.00		R 0.00		R 0.00	0	R 0.00
2.6.7.2		2) length of a single pipe trench exceeding 3.0 m but not 4.0 m in depth	m	2	R 1 650.00	R 3 300.00		R 0.00		R 0.00	0	R 0.00
2.6.7.3		3) length of a single pipe trench exceeding 4.0 m but not 5.0 m in depth	m	3	R 2 750.00	R 8 250.00		R 0.00		R 0.00	0	R 0.00
2.6.7.4		4) length of a single pipe trench exceeding 6.0 m but not 7.0 m in depth	m	3	R 2 750.00	R 8 250.00		R 0.00		R 0.00	0	R 0.00
		(b) for pipes from 700 - 1000 ND										
2.6.7.5		1) length of a single pipe trench exceeding 2.0 m but not 3.0 m in depth	m	30	R 2 750.00	R 82 500.00		R 0.00		R 0.00	0	R 0.00
2.6.7.6		2) length of a single pipe trench exceeding 3.0 m but not 4.0 m in depth	m	3	R 2 750.00	R 8 250.00		R 0.00		R 0.00	0	R 0.00
2.6.7.7		3) length of a single pipe trench exceeding 4.0 m but not 5.0 m in depth	m	8	R 2 750.00	R 22 000.00		R 0.00		R 0.00	0	R 0.00
2.6.7.8		4) length of a single pipe trench exceeding 6.0 m but not 7.0 m in depth	m	29	R 2 750.00	R 79 750.00	28.1	R 77 275.00	0	R 0.00	28.1	R 77 275.00
SUBTOTAL CARRIED FORWARD:						R 4 633 031.56		R 4 400 431.17		R 0.00		R 4 400 431.17

COMMISSION OF INQUIRY STATE CAPTURE

DD34-DCM-673

CONTRACT NO.: MW 18/2013

ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 4 633 031.56		R 4 400 431.17		R 0.00		R 4 400 431.17
2.6.8		(c) for pipes from 1000 - 1200 ND										
2.6.8.1		1) length of a single pipe trench exceeding 3.0 m but not 4.0 m in depth	m	2	R 2 750.00	R 5 500.00		R 0.00	0	R 0.00	0	R 0.00
2.6.8.2		2) length of a single pipe trench exceeding 4.0 m but not 5.0 m in depth	m	3	R 2 750.00	R 8 250.00		R 0.00	0	R 0.00	0	R 0.00
	8.3.5	Existing services										
2.6.9		(a) Services that intersect a trench										
2.6.9.1		(i) Existing water pipelines	No.	2	R 11 000.00	R 22 000.00	2	R 22 000.00	0	R 0.00	2	R 22 000.00
2.6.9.2		(ii) Existing sewers	No.	2	R 16 500.00	R 33 000.00		R 0.00		R 0.00	0	R 0.00
2.6.9.3		(iii) Existing stormwater pipes	No.	2	R 11 000.00	R 22 000.00		R 0.00		R 0.00	0	R 0.00
2.6.9.4		(iv) Existing electric, optic fibre and telecommunication cables, including poles and masts above ground	No.	8	R 5 500.00	R 44 000.00	8	R 44 000.00	0	R 0.00	8	R 44 000.00
2.6.9.5		(v) Precast concrete walls	No.	1	R 11 000.00	R 11 000.00		R 0.00		R 0.00	0	R 0.00
2.6.9.6		(vi) Gabion /Concrete Retaining Walls	No.	3	R 11 000.00	R 33 000.00		R 0.00		R 0.00	0	R 0.00
	8.3.6	Finishing										
2.6.10	8.3.6.1	Re-instate road and other paved surfaces complete with all courses, according to the drawings										
2.6.10.1		(a) Gravel on shoulders of roads	m^2	15	R 234.38	R 3 515.70		R 0.00		R 0.00	0	R 0.00
2.6.10.2		(b) Asphalt of thickness 30 mm in road	m^2	20	R 1 100.00	R 22 000.00		R 0.00	448.62	R 493 482.00	448.62	R 493 482.00
2.6.10.3		(c) Gabions and Reno Matresses (Provisional)	m^2	20	R 335.74	R 6 714.80		R 0.00	100	R 33 574.00	100	R 33 574.00
2.7	SABS 1200 LB	PART 2.7: BEDDING (PIPES)										
2.7.1	PSLB 8.2.6	Provison of bedding from trench excavation or other excavations on site SANS 1200 LB Class B	m^3	369	R 93.31	R 34 431.39	87.14	R 8 131.03	0	R 0.00	87.14	R 8 131.03
SUBTOTAL CARRIED FORWARD:						R 4 878 443.45		R 4 474 562.20		R 527 056.00		R 5 001 618.20

COMMISSION OF ENQUIRY STATE CAPTURE

CONTRACT NO.: MW 18/2019												
ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 4 878 443.45		R 4 474 562.20		R 527 056.00		R 5 001 618.20
		Extra over Item 8.2.1										
2.7.2	PSLB 8.2.7	(a) for installation of geotextile layer and stone bedding layer (to AV chamber)	m^3	75	R 460.66	R 34 549.50		R 0.00		R 0.00	0	R 0.00
2.7.3	PSLB 8.2.7	(b) Extra Over Item 8.2.1 for addition of cement to create 5% soilcrete bedding (Class X bedding)	m^3	173	R 177.02	R 30 624.46	39.9	R 7 063.10	0	R 0.00	39.9	R 7 063.10
2.8		PART 2.8: SITE FINISHING										
	SABS 1200 D	EARTHWORKS										
2.8.1	8.3.11	Grassing by means of using the local natural grass sods, as directed by the Engineer (provisional)	m^2	108	R 7.98	R 861.84		R 0.00		R 0.00	0	R 0.00
2.8.2.1	PSD 8.3.14	Site Landscaping (provisional)	Prov Sum	-	R 0.00	R 50 000.00		R 0.00		R 0.00	0	R 0.00
2.8.2.2		Percentage Mark-up	%	10.00%	R 50 000.00	R 5 000.00		R 0.00		R 0.00	0	R 0.00
2.9		Soil Poisoning to all reinforced concrete surface beds	m^2	108	R 11.00	R 1 188.00		R 0.00		R 0.00	0	R 0.00
SUBTOTAL EARTHWORKS CARRIED FORWARD TO SUMMARY1						R 5 008 667.25		R 4 481 625.30		R 527 056.00		R 5 008 681.30

COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-675

CONTRACT NO.: MW/18/2013

ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	Billed		Claimed Previously		This Claim		Total Claimed	
					RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
3		CIVIL WORKS										
3	Part. Spec. PCG	PART 3.1 : SUBSOIL DRAINAGE SYSTEM										
3.1	PCG-6.1.1	Excavation for subsoil drainage system pump station building										
3.1.1		(a) Excavate soft material situated within the following depth ranges below the bulk excavation bottom level										
3.1.1.1		(i) 0m up to 1,5m	m³	45	R 115.86	R 5 213.70	87.23	R 10 106.47	0	R 0.00	87.23	R 10 106.47
3.1.1.2		(ii) Exceeding 1,5m	m³	68	R 168.05	R 11 427.40	0	R 0.00		R 0.00	0	R 0.00
3.1.2		(b) Extra over sub item (a), irrespective of depth, for										
3.1.2.1		(i) Excavation in intermediate material	m³	50	R 10.76	R 538.00	0	R 0.00		R 0.00	0	R 0.00
3.1.2.2		(ii) Excavation in hard material	m³	10	R 82.08	R 820.80	0	R 0.00		R 0.00	0	R 0.00
3.1.3	PCG-6.1.2	Impermeable backfilling to subsoil drainage system	m³	95	R 177.02	R 16 816.90	0	R 0.00		R 0.00	0	R 0.00
3.1.4	PCG-6.1.3	Natural permeable material in subsoil drainage system from commercial sources										
3.1.4.1		(a) Crushed stone 19mm nominal size	m³	88	R 593.97	R 52 269.36	87.22	R 51 806.06	0	R 0.00	87.22	R 51 806.06
3.1.4.2		(b) Sand Coarse grade	m³	98	R 310.74	R 30 452.52	0	R 0.00		R 0.00	0	R 0.00
	PCG-6.1.4	Pipes in subsoil drainage system (all 110mm diameter)										
		HDPE flexible slotted drainage pipes with smooth bore, "Drainex" or equivalent including couplings (allow 1 coupling per 5m length)	m	250	R 70.31	R 17 577.50	255.3	R 17 950.14	0	R 0.00	255.3	R 17 950.14
3.1.6		"Drainex" or equivalent - 90deg long radius bends	no.	8	R 98.07	R 784.56	24	R 2 353.68	0	R 0.00	24	R 2 353.68
3.1.7		"Drainex" or equivalent - Crosses	no.	21	R 117.80	R 2 473.80	11	R 1 295.80	0	R 0.00	11	R 1 295.80
3.1.8		"Drainex" or equivalent - Tees	no.	17	R 110.00	R 1 870.00	17	R 1 870.00	0	R 0.00	17	R 1 870.00
3.1.9	PSG-6.1.5	Polyethylene sheeting, 0,15 mm thick, or equivalent approved material for lining subsurface drainage system (PROVISIONAL)	m²	189	R 15.64	R 2 940.32	451.65	R 7 063.81	0	R 0.00	451.65	R 7 063.81
3.1.10	PSG-6.1.6	Geotextile : (Grade 2) non woven 100% polyester,double needle punched geotextile, with less than 50% elongation minimum penetrationload of 2kN, maximum puncture resistance hole diameter of 2,4mm and minimum water percolation rate of 30l/m²/s.	m²	200	R 17.80	R 3 560.00	1136.6	R 20 231.48	0	R 0.00	1136.6	R 20 231.48
SUBTOTAL CARRIED FORWARD:						R 146 744.86		R 112 677.44		R 0.00		R 112 677.44

COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-677

CONTRACT NO.: MW 18/2019												
ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 146 744.86		R 112 677.44		R 0.00		R 112 677.44
3.1.11	PSG-6.1.8	End caps to higher ends of subsurface drain pipes	No.	14	R 110.00	R 1 540.00		R 0.00		R 0.00	0	R 0.00
3.1.12	PSG-6.1.10	Overhaul for material hauled in excess of 1,0km freehaul (normal haul) (provisional)	$m^3.km$	23	R 5.64	R 129.72		R 0.00		R 0.00	0	R 0.00
3.1.13		Connections to lateral drainage system behind pumpwell external walls as per drawing 18-144.	No	12	R 275.00	R 3 300.00		R 0.00		R 0.00	0	R 0.00
3.2		PART 3.2.: ROADWORKS										
	SANS 1200 C	Site Clearance										
3.2.1	8.2.1	Clear and Grub	m^2	1500	R 4.74	R 7 110.00	1233	R 5 844.42	0	R 0.00	1233	R 5 844.42
3.2.2	8.2.2	Remove and grub large trees and tree stumps of girth:										
3.2.2.1		a) 1 - 2m	no	5	R 1 516.16	R 7 580.80	4	R 6 064.64	0	R 0.00	4	R 6 064.64
3.2.2.2		b) 2 -3m	no	5	R 1 516.16	R 7 580.80	0	R 0.00		R 0.00	0	R 0.00
3.2.3	8.2.5	Dismantle existing fence	m	30	R 88.00	R 2 640.00	0	R 0.00		R 0.00	0	R 0.00
	SANS 1200 D	Earthworks										
3.2.4	8.3.1.2	Remove topsoil to nominal depth of 150mm, stockpile and maintain	m^2	1500	R 5.75	R 8 625.00	0	R 0.00		R 0.00	0	R 0.00
3.2.5	8.3.2	Box out for road layerworks and spoil	m^3	465	R 75.53	R 35 121.45	184.95	R 13 969.27	255.67	R 19 310.76	440.62	R 33 280.03
3.2.6	8.3.10	Topsoiling	m^2	1500	R 9.58	R 14 370.00	0	R 0.00		R 0.00	0	R 0.00
	SANS 1200DM	Earthworks (roads, subgrade)										
3.2.7	8.3.3	Treatment of roadbed										
3.2.7		a) Minimum of 93% MODAASHTO	m^3	169	R 46.67	R 7 887.23	184.95	R 8 631.62	70.72	R 3 300.50	255.67	R 11 932.12
3.2.8	8.3.5	Selected layer compacted to 93% MOD AASHTO. (G7 or better quality material)	m^3	240	R 247.97	R 59 512.80		R 0.00	170.448	R 42 265.99	170.448	R 42 265.99
3.2.9	SANS 1200 ME	Subbase										
3.2.10	8.3.3	Construct G5 subbase with material from commerical sources	m^3	225	R 397.06	R 89 338.50	266.6	R 105 856.20	85.224	R 33 839.04	351.824	R 139 695.24
3.3		PART 3.3.: FENCING										
		(a) New fencing for perimeter of Pump Station to connect with existing at treatment works										
SUBTOTAL CARRIED FORWARD:						R 391 481.16		R 253 043.59		R 98 716.29		R 351 759.88

CONTRACT NO.: MW 18/2013												
ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 391 481.16		R 253 043.59		R 98 716.29		R 351 759.88
3.3.1		Clearing line of fence 2 m wide	m	123	R 88.00	R 10 824.00	123	R 10 824.00	0	R 0.00	123	R 10 824.00
		Supply and erection of fence as follows:										
3.3.2		(i) Supply and erection of new diamond mesh fence, 2.1m high, to tie-in to existing fence	m	123	R 352.00	R 43 296.00	123	R 43 296.00	0	R 0.00	123	R 43 296.00
3.3.3		Corner and straining posts including the necessary stays	No.	15	R 770.00	R 11 550.00	15	R 11 550.00	0	R 0.00	15	R 11 550.00
3.3.4		Extra over item for posts in hard rock (provisional)	No.	13	R 511.50	R 6 649.50		R 0.00		R 0.00	0	R 0.00
3.4		**PART 3.4.: SITE STORMWATER**										
3.4	SABS 1200 LE	**STORMWATER DRAINAGE**										
	8.2.1	Supply and lay concrete pipe culverts on class B bedding (provisional)										
3.4.1		a) 375mm Diameter class 100D spigot and socket concrete pipes with jointing ring.	m	155	R 558.43	R 86 556.65	100	R 60 310.44	61.4	R 34 287.60	159.4	R 94 598.04
	8.2.8	Supply and install manholes, catchpits, and the like										
		a) Precast concrete manholes, not exceeding 2.5m deep (provisional)	No.	2	R 10 684.98	R 21 369.96	6	R 64 109.88	0	R 0.00	6	R 64
3.4.3		b) Heavy duty 450x350mm Grid Inlets including frames - Bessans and Du Plessis Product code 2980 or equal approved.	No.	11	R 1 925.00	R 59 675.00	3	R 5 775.00	1	R 1 925.00	4	R 7 700.00
3.4.4		c) Calcamite step irons (225 long)	No.	38	R 93.50	R 3 553.00		R 0.00		R 0.00	0	R 0.00
		Miscellaneous										
3.4.5		Breaking and connecting into existing stormwater manhole inlcuding making good.	No.	2	R 11 000.00	R 22 000.00	0.437925	R 4 817.18	0	R 0.00	0.437925	R 4 817.18
3.4.6		Supply and Install Sika Boom(500 ml canisters),or equal approved to seal ends (openings) of cable trenches/ducts (items listed under 9.4 above)	No.	20	R 220.00	R 4 400.00		R 0.00		R 0.00	0	R 0.00
3.4.7		Concrete Headwall complete as per the drawing 18-17?	No.	1	R 16 500.00	R 16 500.00	1	R 16 500.00	0	R 0.00	1	R 16 500.00
3.5	SABS 1200 LC	**PART 3.5: CABLE DUCTS**										
SUBTOTAL CARRIED FORWARD:						R 677 855.27		R 470 226.08		R 134 928.89		R 605 154.97

CONTRACT NO.: MW 18/2013												
ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 677 855.27		R 470 226.08		R 134 928.89		R 505 154.97
	8.2.2	Excavation										
		a) Excavate in all materials for trenches, backfill, compact, and dispose of surplus material										
3.5.1		1) 300mm Wide trench not exceeding 1m deep	m	174	R 68.95	R 11 997.30		R 0.00		R 0.00	0	R 0.00
3.5.2		2) 450mm Wide trench not exceeding 1m deep	m	30	R 104.05	R 3 121.50		R 0.00		R 0.00	0	R 0.00
3.5.3		3) 600mm Wide trench not exceeding 1m deep	m	11	R 146.05	R 1 606.55		R 0.00		R 0.00	0	R 0.00
3.5.4		4)790mm Wide trench not exceeding 1m deep	m	30	R 154.60	R 5 838.00	108	R 21 016.80	0	R 0.00	108	R 21 016.80
3.5.5		b) Extra-over item (a) above for:										
3.5.6		2) Hard rock excavation	m^3	3	R 156.67	R 470.01		R 0.00		R 0.00	0	R 0.00
		c) Excavate unsuitable material from trench bottom and dispose of it (provisional)	m^3	7	R 140.17	R 981.19		R 0.00		R 0.00	0	R 0.00
3.5.7	8.2.3	Shore trench at structures	m	215	R 275.00	R 59 125.00		R 0.00		R 0.00	0	R 0.00
3.5.8	8.2.5	Supply, lay, bed and prove duct										
		a) 110mm Diameter HDPE PE80 pipe	m	145	R 162.69	R 23 590.05		R 0.00		R 0.00	0	R 0.00
3.5.10		b) 600x 500 rectangular precast concrete portal 200s in accordance with SANS 986.	m	22	R 1 320.00	R 29 040.00		R 0.00		R 0.00	0	R 0.00
3.5.11	8.2.6	Imported bedding material, where ordered	m^3	7	R 93.91	R 657.37		R 0.00		R 0.00	0	R 0.00
3.5.12	8.2.8	Cable markers										
3.5.13		a) Route markers	No.	47	R 269.85	R 12 682.95		R 0.00		R 0.00	0	R 0.00
3.5.14	8.2.9	Overhaul of surplus excavation (provisional)	$m^3.km$	9	R 5.64	R 50.76		R 0.00		R 0.00	0	R 0.00
3.5.13		IP66, 3 Way cast alloy cable boxes with lids, seals and internal 4 way terminals	No.	60	R 935.00	R 56 100.00		R 0.00		R 0.00	0	R 0.00
3.5.14		Additional klippon terminals on new DIN rails mounted in boards as may be required	No.	60	R 275.00	R 16 500.00						
SUBTOTAL CIVIL WORKS CARRIED FORWARD TO SUMMARY:						R 899 615.95		R 491 242.88		R 134 928.89		R 526 171.

COMMISSION OF INQUIRY INTO STATE CAPTURE

CONTRACT NO.: MW/18/2013

ITEM NO.	PAYMENT	DESCRIPTION	UNIT	Billed QTY	Billed RATE (R)	Billed AMOUNT (R)	Previously Claimed QTY	Previously Claimed AMOUNT (R)	This Claim QTY	This Claim AMOUNT (R)	Total Claimed QTY	Total Claimed AMOUNT (R)
4		STRUCTURAL WORKS										
		(Earthworks measured elsewhere)										
	SABS 1200 G	CONCRETE										
4.1	8.2	FORMWORK										
	8.2.1	Rough										
4.1.1		1) To sides of raft slab	m²	40	R 276.18	R 11 127.20	55.73	R 15 502.97	0	R 0.00	55.73	R 15 502.97
4.1.2		2) To sides of sump and chamber walls	m²	656	R 412.28	R 270 455.68	711.57	R 293 366.08	0	R 0.00	711.57	R 293 366.08
4.1.3		3) To sides of raking walls	m²	547	R 412.28	R 225 517.16	451.14	R 185 996.00	0	R 0.00	451.14	R 185 996.00
4.1.4		4) To buttress walls	m²	122	R 412.28	R 50 298.16	110.78	R 45 672.38	0	R 0.00	110.78	R 45 672.38
4.1.5		5) To walls	m²	60	R 412.28	R 24 736.80	85.04	R 35 060.29	0	R 0.00	85.04	R 35 060.29
4.1.6		6) To bases and ground beams	m²	59	R 157.19	R 9 864.21	56.6	R 9 462.95	0	R 0.00	56.6	R 9 462.95
4.1.7		7) To raking sides of bases	m²	2	R 377.01	R 754.02	0	R 0.00		R 0.00	0	R 0.00
	8.2.2	Smooth										
4.1.8		1) To sides of walls	m²	613	R 412.28	R 252 727.64	659.7	R 271 981.12	0	R 0.00	659.7	R 271 981.12
4.1.9		2) To kicker to be cast monolithically with slabs	m	187	R 60.58	R 11 328.46	0	R 0.00		R 0.00	0	R 0.00
4.1.10		3) To sides of columns not exceeding 3.5m high	m²	21	R 202.25	R 4 247.25	28.68	R 5 800.53	0	R 0.00	28.68	R 5 800.53
4.1.11		4) To sides of columns exceeding 6.5m and not exceeding 8m high	m²	209	R 296.76	R 61 132.55	242.94	R 72 094.87	0	R 0.00	242.94	R 72 094.87
4.1.12		5) To sides of columns exceeding 8m and not exceeding 9.5m high	m²	16	R 414.91	R 6 638.56	0	R 0.00		R 0.00	0	R 0.00
4.1.13		6) To sides of columns exceeding 9.5m and not exceeding 11m high	m²	20	R 769.34	R 15 386.80	0	R 0.00		R 0.00	0	R 0.00
SUBTOTAL CARRIED FORWARD:						R 944 214.50		R 934 937.19		R 0.00		R 934 937.19

COMMISSION OF INQUIRY INTO STATE CAPTURE

CONTRACT NO.: MW 18/2013

ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 944 214.50		R 934 937.19		R 0.00		R 934 937.19
4.1.14		8) To sides of inverted beams	m²	16	R 167.19	R 2 675.04		R 0.00		R 0.00	0	R 0.00
4.1.15		9) To sides of concrete pipe supports + thrust blocks	m²	21	R 287.39	R 6 035.19	23.97	R 6 888.74	0	R 0.00	23.97	R 6 888.74
4.1.16		10) To sides and soffits of beams	m²	52	R 377.01	R 19 604.52	66.07	R 24 909.05	0	R 0.00	66.07	R 24 909.05
4.1.17		11) To sides and soffits of isolated beams propped up exceeding 9.5m and not exceeding 11m high	m²	75	R 619.14	R 46 435.50	169.79	R 105 123.78	0	R 0.00	169.79	R 105 123.78
4.1.18		12) To sides and soffits of isolated beams propped up exceeding 11m and not exceeding 12.5m high	m²	117	R 807.44	R 94 470.48	0	R 0.00		R 0.00	0	R 0.00
4.1.19		13) To sides and soffits of isolated beams propped up exceeding 12.5m and not exceeding 14m high	m²	206	R 958.10	R 197 368.60	244.62	R 234 370.42	0	R 0.00	244.62	R 234 370.42
4.1.20		14) To soffits of slabs propped up not exceeding 3.5m high	m²	224	R 405.74	R 90 885.76	212.28	R 86 130.49	0	R 0.00	212.28	R 86 130.49
4.1.21		15) To soffits of slabs propped up exceeding 5m and not exceeding 6.5m high	m²	77	R 562.20	R 43 289.40	42.13	R 23 685.49	0	R 0.00	42.13	R 23 685.49
4.1.22		16) To soffits of chamber slabs	m²	8	R 654.25	R 5 234.00	7.7	R 5 037.73	0	R 0.00	7.7	R 5 037.73
4.1.23		17) To soffits of chamber slabs propped up exceeding 5m and not exceeding 6.5m high	m²	21	R 562.20	R 11 806.20	66.23	R 37 234.51	0	R 0.00	66.23	R 37 234.51
4.1.24		18) Plinths - pumps, motors, valves, pipe supports	m²	98	R 287.39	R 28 164.22	207.81	R 59 722.52	0	R 0.00	207.81	R 59 722.52
	8.2.5	Narrow widths										
4.1.25		1) To edges not exceeding 300mm wide/deep	m	195	R 96.04	R 18 727.80	128.48	R 12 339.22	0	R 0.00	128.48	R 12 339.22
4.1.26		2) Boxing out fwk to form projection 100 x 300mm to walls	m	12	R 295.90	R 3 550.80	0	R 0.00		R 0.00	0	R 0.00
4.1.27		3) Boxing in fwk to form drip groove	m	24	R 295.90	R 7 101.60	54.2	R 16 037.78	0	R 0.00	54.2	R 16 037.78
	8.2.6	Box Out Holes / Form Voids										
SUBTOTAL CARRIED FORWARD:						R 1 519 563.61		R 1 546 416.91		R 0.00		R 1 546 416.91

COMMISSION OF INQUIRY INTO STATE CAPTURE

CONTRACT NO.: MW 18/2013

ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 1 519 568.61		R 1 546 416.91		R 0.00		R 1 546 416.91
		(a) Small, circular, of diameter up to 0.35m										
4.1.28		(1) 0.0 to 0.5 m deep	No	22	R 504.44	R 11 097.68		R 0.00		R 0.00	0	R 0.00
		d) Large, other than circular, of area over 0,1m2 and up and including to 0,5m2										
4.1.29		1) Up to and including 0,5m deep	No	10	R 748.39	R 7 483.90	22	R 16 464.58	0	R 0.00	22	R 16 464.58
		e) Large, other than circular, o area over 0,5m² and up to and including 1m2										
4.1.30		1) Up to and including 0,5m deep	No	1	R 957.45	R 957.45	2	R 1 914.90	0	R 0.00	2	R 1 914.90
		(f) Large, other than circular, of area over 0.5 m² and up and including to 1.5 m²										
4.1.31		1) Up to and including 0,5m deep	No	6	R 1 236.15	R 7 416.90	3	R 3 708.45	0	R 0.00	3	R 3 708.45
		(g) Large, other than circular, of area over 1.5 m² and up and including to 2.5 m²										
4.1.32		1) Up to and including 0,5m deep	No	3	R 1 236.15	R 3 708.45	7	R 8 653.05	0	R 0.00	7	R 8 653.05
4.1		25x25mm chamfers to concrete	m	707	R 14.74	R 10 421.18	1753.25	R 25 842.91	0	R 0.00	1753.25	R 25 842.91
4.	8.3	REINFORCEMENT										
	8.3.1	Steel bars										
4.2.1		1) Mild steel	t	16	R 10 423.79	R 166 780.64	0	R 0.00		R 0.00	0	R 0.00
4.2.2		2) High-tensile steel	t	107	R 10 423.79	R 1 115 348.53	172.52	R 1 798 312.25	2.5	R 26 059.48	175.02	R 1 824 371.73
4.3	8.4	CONCRETE										
	8.4.2	Blinding Layer										
4.3.1		(a) 50 mm minimum thickness grade 15 MPa/19 mm concrete	m³	34	R 99.31	R 3 376.54	769.74	R 76 442.88	0	R 0.00	769.74	R 76 442.88
SUBTOTAL CARRIED FORWARD:						R 2 846 151.88		R 3 477 755.92		R 26 059.48		R 3 503 815.40

CONTRACT NO.: MW 18/2013													
ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 2 946 151.88		R 3 477 751.92		R 26 059.48		R 3 503 815.40
	8.4.3	35Mpa / 19mm stone Water Retaining concrete										
4.3.2		1) Bases	m^3	33	R 1 863.81	R 61 505.73	39.75	R 74 086.45	0	R 0.00	39.75	R 74 086.45
4.3.3		2) Sump and chamber walls	m^3	91	R 1 961.01	R 180 271.91	112.37	R 222 606.09	0	R 0.00	112.37	R 222 606.09
4.3.4		3) Screed to falls	m^3	128	R 1 945.23	R 248 989.44	126.44	R 245 945.16	0	R 0.00	126.435	R 245 945.16
4.3.5		4) Column bases	m^3	4	R 1 798.65	R 6 978.76	4.38	R 7 869.09	0	R 0.00	4.375	R 7 869.09
4.3.6		5) Walls	m^3	62	R 1 961.01	R 122 822.62	28.28	R 56 022.96	0	R 0.00	28.28	R 56 022.96
4.3.7		6) Surface beds / raft slab	m^3	209	R 1 791.42	R 374 406.78	261.98	R 469 316.21	0	R 0.00	261.98	R 469 316.21
4.3.8		7) Slabs including beams and inverted beams	m^3	108	R 1 959.03	R 211 575.24	71.36	R 139 796.38	0	R 0.00	71.36	R 139 796.38
4.3.9		8) Isolated beams	m^3	71	R 2 072.61	R 147 155.31	85.28	R 176 752.18	0	R 0.00	85.28	R 176 752.18
4.3.10		9) Columns	m^3	31	R 2 086.36	R 64 677.16	28.85	R 60 191.49	0	R 0.00	28.85	R 60 191.49
4.3.11		10) Raking walls	m^3	203	R 1 981.01	R 402 145.03	166.66	R 330 155.13	0	R 0.00	166.66	R 330 155.13
4.3.12		11) Butress walls	m^3	18	R 1 981.01	R 35 658.18	25.4	R 50 317.65	0	R 0.00	25.4	R 50 317.65
4.3.13		12) Plinths	m^3	43	R 1 798.65	R 77 341.95	49.29	R 88 655.46	-4.95	-R 8 903.32	44.34	R 79 752.14
4.3.14		13) Chamber slabs	m^3	13	R 1 886.42	R 24 523.46	27.58	R 52 027.46	0	R 0.00	27.58	R 52 027.46
4.		14) Pipe supports and thrust blocks	m^3	18	R 1 886.42	R 33 958.56	20.126	R 37 966.09	0	R 0.00	20.126	R 37 966.09
	8.4.4	Unformed surface finishes										
4.3.16		(b) Steel-floated finish	m^2	131	R 15.99	R 2 094.69	319.1	R 5 102.41	0	R 0.00	319.1	R 5 102.41
4.3.17		c) Power-floated finish	m^2	807	R 23.99	R 19 359.93	0	R 0.00		R 0.00	0	R 0.00
4.3.18	PSG 8.4.8	Curing of concrete (for all structures)										
4.3.18.1		a) Main Building	Sum	1	R 40 874.70	R 40 874.70	1	R 40 874.70	0	R 0.00	1	R 40 874.70
4.3.18.2		b) External Chambers	Sum	1	R 30 656.03	R 30 656.03	1	R 30 656.03	-	R 0.00	1	R 30 656.03
4.3.19	PSG 8.4.9	Testing for water tightness in wet chambers	Sum	1	R 11 561.37	R 11 561.37	0	R 0.00		R 0.00	0	R 0.00
	SANS 1200G 8.4	Reinforced concrete Pipe supports in chambers, including grouting under base plates, incl 6mm Neoprina rubber bond breaker as detailed on the drawings										
4.3.20		1) Delivery Chamber	No	3	R 2 750.00	R 8 250.00		R 0.00		R 0.00	0	R 0.00
4.3.21		2) Meter Chamber	No	2	R 2 750.00	R 5 500.00		R 0.00		R 0.00	0	R 0.00
SUBTOTAL CARRIED FORWARD:						R 4 956 455.73		R 5 566 096.86		R 17 156.16		R 5 583 253.02

CONSIGNO SOUTH INTO STATE CAPTURE

CONTRACT NO.: MW 16/2013

ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 4 956 455.73		R 5 566 096.86		R 17 156.16		R 5 583 253.02
4.3.22		3) Suction Tie-in Chambers	No	3	R 2 750.00	R 8 250.00		R 0.00		R 0.00	0	R 0.00
		Cast in pipework supplied by others										
4.3.23		1) Delivery Chamber	Sum	1	R 4 582.77	R 4 582.77	5	R 22 913.85	0	R 0.00	5	R 22 913.85
4.3.24		2) Meter Chamber	Sum	1	R 4 582.77	R 4 582.77	2	R 9 165.54	0	R 0.00	2	R 9 165.54
4.3.25		3) Suction Tie-in Chamber	Sum	1	R 4 582.77	R 4 582.77	2	R 9 165.54	0	R 0.00	2	R 9 165.54
4.3.26		4) Suction Pipes into Main Pump Building	Sum	1	R 4 582.77	R 4 582.77	2	R 9 165.54	0	R 0.00	2	R 9 165.54
4.3.27		5) Delivery Pipe out of Main Pump Building	Sum	1	R 4 582.77	R 4 582.77	1	R 4 582.77	0	R 0.00	1	R 4 582.77
4.3.28		6) Municipal Tie-in Chamber (320)	Sum	1	R 4 582.77	R 4 582.77		R 0.00		R 0.00	0	R 0.00
		Demolitions										
3.29		Cut existing reservoir wall once suction chamber is complete as per drawing 04-130	m²	11	R 7 150.00	R 78 650.00	2.1	R 15 015.00	0	R 0.00	2.1	R 15 015.00
	8.5	JOINTS										
3.30		1) 300 x 2,0 Sika 'Combiflex' Bandage seal fixed with 'Sikadur-31' epoxy not exceeding 300mm wide	m	194	R 715.00	R 138 710.00	204.02	R 145 874.30	0	R 0.00	204.02	R 145 874.30
		2) 2 layers 3Ply malthoid 300mm wide	m	17	R 46.60	R 792.20	13.6	R 633.76	0	R 0.00	13.6	R 633.76
3.32		3) 30mm expanded EPDM 110kg/m3 250mm wide	m	59	R 275.00	R 16 225.00	20.11	R 5 530.25	0	R 0.00	20.11	R 5 530.25
3.33		4) Sikaswell sealant	m	89	R 275.00	R 24 475.00	38.7	R 10 642.50	0	R 0.00	38.7	R 10 642.50
3.34		Wrapping of steel pipes at concrete interfaces										
3.34.		a) Wrapping of pipes with puddle flanges through concrete walls with PVC-bitumen tape (Densocied 70, Tapekor 1250 or similar approved (provisional)	m²	20	R 275.00	R 5 500.00	6.03	R 1 658.25	0	R 0.00	6.03	R 1 658.25
3.34.		b) Wrapping of pipes without puddle flanges through concrete walls with PVC-bitumen tape (Densocied 70, Tapekor 1250 or similar approved), 30mm thick expanded EPDM and sealant (SikaSwell or similar approved) as shown on concrete detail drawings	m²	38	R 275.00	R 10 450.00	6.54	R 1 798.50	0	R 0.00	6.54	R 1 798.50
3.35		6) 10 x 10 Sikasil 728NS sealant	m	4	R 275.00	R 1 100.00		R 0.00		R 0.00	0	R 0.00
3.36		7) 10mm closed cell joint former with 10 x 10mm tear off strip - Jointex Sondor or similar approved	m	4	R 33.00	R 132.00		R 0.00		R 0.00	0	R 0.00
TOTAL CARRIED FORWARD:						R 5 268 236.55		R 5 802 242.66		R 17 156.16		R 5 819 398.82

CONTRACT NO.: MW 18/2013												
ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 5 268 236.55		R 6 802 242.66		R 17 155.16		R 5 819 398.82
4.3.37		8) Scabble face of existing concrete not exceeding 300mm wide	m	12	R 35.43	R 425.16	2.092	R 74.12	0	R 0.00	2.092	R 74.12
4.3.38		9) Y20 dowel bars drilled and epoxies into existing concrete walls with HILTI RE500 mortar	No	39	R 123.08	R 4 800.12	44	R 5 415.52	0	R 0.00	44	R 5 415.52
4.3.39		10) Horizontal construction joint not exceeding 300mm wide/deep, including R16 hot dipped galvanised dowels approximately 560mm long with one equal end cast into concrete at 400mm centres and the other end wrapped in bond breaking compound. Joint to be sealed with and including Sikaflex Facade AT. or equal approved. sealant.	m	7	R 748.43	R 5 239.01		R 0.00		R 0.00	0	R 0.00
4.3.40	PEF 4.3	11) 100mm deep saw cut in screed and fill with polyurethane joint filler - Sika Flex Pro 2HP or similar approved	m	60	R 71.50	R 4 290.00		R 0.00		R 0.00	0	R 0.00
4.3.41		12) Isolation Joints around plinths and walls. Height to be between 450mm and 250mm - Jointex Sondor or similar approved with tear off strip and fill with Sika Flex Pro 2HP or similar approved colour to match epoxy floor	m	140	R 93.50	R 13 090.00	255.3	R 23 870.55	0	R 0.00	255.3	R 23 870.55
	SABS 1200G 8.7	Grouting										
4.3		Non shrink grout under baseplates	m^3	1.50	R 27 500.00	R 41 250.00	0.375	R 10 312.50	0	R 0.00	0.375	R 10 312.50
4.3.43		Non-shrink grout in embedding pipes	m^3	10.00	R 16 500.00	R 165 000.00		R 0.00	3.5	R 57 750.00	3.5	R 57 750.00
4.3.44		Non-shrink grout under crane rails	m^3	5.00	R 22 000.00	R 110 000.00	0.44	R 9 680.00	0	R 0.00	0.44	R 9 680.00
		OTHER ITEMS										
4.3.45		Allow for Under floor drainage system as per detail drawing 20131024172G and extent shown on drawing 03-90-001	m	23	R 1 650.00	R 37 950.00	58.65	R 96 772.50	0	R 0.00	58.65	R 96 772.50
4.3.46		Floor drain with grating as per drawing 03-90-001	m	23	R 2 750.00	R 63 250.00	30.95	R 85 112.50	0	R 0.00	30.95	R 85 112.50
		Cable Trenches										
4.3.47		Formwork to sides of screed to form cable trenches 250 - 450mm high	m	169	R 96.04	R 16 230.76	214.6	R 20 610.18	0	R 0.00	214.6	R 20 610.18
4.3.48		Umgeni sand fill to to cable trenches	m^3	15	R 310.74	R 4 661.10		R 0.00	10	R 3 107.40	10	R 3 107.40
4.3.49		50mm 6:1 screed topping to sand fill in cable trenches	m^2	37	R 69.09	R 2 556.33		R 0.00		R 0.00	0	R 0.00
SUBTOTAL CARRIED FORWARD:						R 5 736 979.03		R 6 054 090.54		R 78 023.56		R 6 132 104.09

CONVERSION OF ENQUIRY INTO STATE CAPTURE

CONTRACT NO.: MW 18/2013

ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 5 736 979.03		R 6 054 090.54		R 78 013.96		R 6 132 104.09
4.4	SABS 1200 H	STRUCTURAL STEELWORK										
	8.3.1	Supply and fabrication										
4.4.1	8.3.1.1	Preparation of shop detail drawings	sum	1	R 22 000.00	R 22 000.00	1	R 22 000.00	0	R 0.00	1	R 22 000.00
	8.3.1.2	Supply and fabrication of steelwork										
		Roof steelwork										
4.4.2		a) 406 x 140 x 39 Universal beam rafters	t	2.36	R 24 200.00	R 57 112.00	2.6324	R 63 704.08	0	R 0.00	2.6324	R 63 704.08
4.4.3		b) 50 x 50 x 5 angle section bracing	t	0.98	R 24 200.00	R 23 716.00	0.577	R 13 963.40	-0.577	-R 13 963.40	0	R 0.00
4.4.4		b) 50 x 50 x 5 angle section fixed to RC beam	t	0.11	R 24 200.00	R 2 662.00	0.722	R 17 472.40	0.048	R 1 161.60	0.77	R 18 634.00
4.4.5		j) 175 x 65 x 20 x 2.5 Cold form lipped channel purlins (hot dip galvanised and corrosion protection system as per the specifications)	t	1.89	R 24 200.00	R 45 738.00	2.6699	R 64 611.58	0	R 0.00	2.6699	R 64 611.58
4.4.6		e) 45 x 45 x 4 angle section sag bars	t	0.24	R 24 200.00	R 5 808.00	0.425	R 10 285.00	0	R 0.00	0.425	R 10 285.00
4.4.7		f) 600 x 150 x 20mm end plate	t	0.24	R 24 200.00	R 5 808.00	0.433	R 10 478.60	0	R 0.00	0.433	R 10 478.60
		Stairs										
4.		a) 170 x 170 x 10mm baseplates	t	0.01	R 24 200.00	R 242.00		R 0.00		R 0.00	0	R 0.00
4.4.9		b) 250 x 250 x 10mm plates	t	0.07	R 24 200.00	R 1 694.00	0.442	R 10 696.40	0.028	R 677.60	0.47	R 11 374.00
4.4.10		c) 60 x 3mm side plates	t	0.06	R 24 200.00	R 1 452.00	0.106	R 2 565.20	0	R 0.00	0.106	R 2 565.20
4.4.11		d) 152 x 23 UC	t	0.19	R 24 200.00	R 4 598.00	0.776	R 18 779.20	0	R 0.00	0.776	R 18 779.20
4.4.12		e) 220 x 80 PFC in landings	t	1.87	R 24 200.00	R 45 254.00	1.82	R 44 044.00	0	R 0.00	1.82	R 44 044.00
4.4.13		f) 220 x 80 PFC in stringers	t	1.95	R 24 200.00	R 47 190.00	2	R 48 400.00	0	R 0.00	2	R 48 400.00
4.4.14		g) 150 x 8mm kickplate(to all high level walkways)	t	0.50	R 24 200.00	R 12 100.00	0.4	R 9 680.00	0	R 0.00	0.4	R 9 680.00
		Walkway										
4.4.15		2) IPE 200 supports	t	0.08	R 24 200.00	R 1 936.00	0.106	R 2 565.20	0.035	R 847.00	0.141	R 3 412.20
4.4.16		3) IPE 180 supports	t	0.09	R 24 200.00	R 2 178.00	0.109	R 2 637.80	0	R 0.00	0.109	R 2 637.80
4.4.17		4) 200 x 75 PFC	t	1.10	R 24 200.00	R 26 620.00	1.63	R 39 446.00	0	R 0.00	1.63	R 39 446.00
4.4.18		5) 180 x 70 PFC	t	0.43	R 24 200.00	R 10 406.00	0.43	R 10 406.00	0	R 0.00	0.43	R 10 406.00
4.4.19		6) 50 x 50 x 5 angles with fish tail anchors	t	0.11	R 24 200.00	R 2 662.00	0.1	R 2 420.00	0	R 0.00	0.1	R 2 420.00
4.4.20		7) 150 x 8mm kickplate	t	0.41	R 24 200.00	R 9 922.00	0.6	R 14 520.00	0	R 0.00	0.6	R 14 520.00
4.4.21		8) 60 x 3.0 CHS	t	0.02	R 24 200.00	R 484.00	0.012	R 290.40	0	R 0.00	0.012	R 290.40
SUBTOTAL CARRIED FORWARD:						R 6 066 561.03		R 6 463 055.80		R 66 736.36		R 6 529 792.15

DD34-DCM-687

CONTRACT NO.: MW 18/2013

ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 6 066 561.03		R 6 463 055.80		R 66 736.36		R 6 529 792.15
4.4.22		9) 40 x 3,0 CHS	t	0.02	R 24 200.00	R 484.00	0.018	R 435.60	0	R 0.00	0.018	R 435.60
4.4.23		10) 230 x 230 x 10mm plate	t	0.05	R 24 200.00	R 1 210.00	0.276	R 6 679.20	0.066	R 1 597.20	0.342	R 8 276.40
4.4.24		11) 250 x 250 x 10mm plate	t	0.04	R 24 200.00	R 968.00		R 0.00		R 0.00	0	R 0.00
	8.3.2	Delivery to site										
4.4.25	8.3.2.1	Normal delivery	t	12.82	R 550.00	R 7 051.00	7.1163	R 3 913.97	8.7687	R 4 822.79	15.885	R 8 736.75
	8.3.3	Erection on site										
4.4.26		a) Erection of roof steelwork	t	5.82	R 4 180.00	R 24 327.60	7.1163	R 29 746.13	0	R 0.00	6.93	R 28 967.40
4.4.27		b) Erection of stair steelwork	t	4.65	R 4 620.00	R 21 483.00	4.65	R 21 483.00	1.1	R 5 082.00	5.75	R 26 565.00
4.4.28		c) Erection of walkway steelwork	t	2.35	R 4 620.00	R 10 857.00	2.35	R 10 857.00	0.855	R 3 950.10	3.205	R 14 807.10
	8.3.4	Erection bolts										
4.4.29		a) Grade 8.8 bolts (Hot Dip Galvanised 70 microns DFT)	t	0.05	R 49 500.00	R 2 475.00	0.07509	R 3 716.96	0	R 0.00	0.07509	R 3 716.96
4.4.30		b)HY200 and HIT-Z-R M12 anchors - Stainless Steel 304	No	145	R 165.00	R 23 925.00	145	R 23 925.00	0	R 0.00	145	R 23 925.00
4.4.31		c) Hilti HY 200 + 2 No HIT-Z-R M16 anchors - Stainless Steel 304	No	2	R 165.00	R 330.00	51	R 8 415.00	0	R 0.00	51	R 8 415.00
	8.3.5	Site Welding										
4.4.32		6mm Continuous fillet welds	Sum	1	R 1 650.00	R 1 650.00	1	R 1 650.00	0	R 0.00	1	R 1 650.00
	8.3.7	Handrails										
		b) Mentis tubular, or equal approved, hot dipped galvanised industrial handrailing 1000mm high, welded to steelwork / bolted to concrete, including 100mm high hot dipped galvanised kicker plate, welded to steelwork / bolted to concrete										
4.4.33		1) Horizontal top + middle rails	m	54	R 125.40	R 6 771.60	67	R 8 401.80	0	R 0.00	67	R 8 401.80
4.4.34		2) Sloping top + middle rails	m	142	R 125.40	R 17 806.80	155	R 19 437.00	0	R 0.00	155	R 19 437.00
4.4.35		3) Shaped Ends	nr	26	R 209.00	R 5 434.00	98	R 20 482.00	0	R 0.00	98	R 20 482.00
4.4.36		4) Posts 1000mm high	No	64	R 308.00	R 19 712.00	141	R 43 428.00	0	R 0.00	141	R 43 428.00
	8.3.9	Flooring, complete and installed with frames										
SUBTOTAL CARRIED FORWARD:						R 6 211 046.03		R 6 655 626.45		R 82 188.44		R 6 747 036.16

CONVICTION OF EQUITY INTO STATE CAPTURE

CONTRACT NO.: MW 18/2013

ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 6 211 046.03		R 6 665 626.45		R 82 188.44		R 6 747 036.16
		a) Access Walkways										
4.4.37		1) R5 40 x 3 galvanised mentis Rectagrid	m²	68	R 1 760.00	R 119 680.00	92	R 161 920.00	1	R 1 760.00	93	R 163 680.00
4.4.38		285 x 100 x 1000mm Mentis stair treads	No	102	R 715.00	R 72 930.00	127	R 90 805.00	0	R 0.00	127	R 90 805.00
4.4.39	8.3.10	Non-destructive testing										
		a) Weld tests	Sum	1	R 5 500.00	R 5 500.00	1	R 5 500.00	0	R 0.00	1	R 5 500.00
4.5	SABS 1200 HA	STRUCTURAL STEELWORK (SUNDRY ITEMS)										
	8.3.3	Ladders, Complete and Installed										
4.5.1		1) Grade 304 Stainless steel catladder as per drawing 04-420 to crane walkway	kg	206	R 77.00	R 15 862.00	206	R 15 862.00	-56	-R 4 312.00	150	R 11 550.00
4.5.2		2) Grade 304 Stainless steel catladder as per drawing 03-18-122 to delivery chamber	kg	360	R 77.00	R 27 720.00	360	R 27 720.00	0	R 0.00	360	R 27 720.00
4.5.3		2) Grade 304 Stainless steel catladder as per drawing 03-18-122 to suction chamber	kg	314	R 77.00	R 24 178.00	314	R 24 178.00	294	R 22 638.00	608	R 46 816.00
	SHA - 8.3.7	Sundry Items										
		(a) Supply and install metal work items complete as shown on the drawings										
4.5.4		1) 600x600mm G.I. Manhole Cover and frame	No.	1	R 1 925.00	R 1 925.00	3	R 5 775.00	0	R 0.00	3	R 5 775.00
4.5.5		2) 1000x1000mm G.I. Manhole Cover and frame	No.	2	R 5 950.00	R 11 900.00	1	R 5 950.00	0	R 0.00	1	R 5 950.00
4.5.6		3) 1200x1200mm G.I. Manhole Cover and frame	No.	7	R 6 050.00	R 42 350.00	3	R 18 150.00	0	R 0.00	3	R 18 150.00
4.5.7		4) 1500x1500mm G.I. Manholes cover and frame	No.	3	R 9 680.00	R 29 040.00	1	R 9 680.00	0.44	R 4 259.20	1.44	R 13 939.20
SUBTOTAL CARRIED FORWARD:						R 6 562 131.03		R 7 031 156.45		R 106 533.64		R 7 136 921.36

COMMISSION OF INQUIRY INTO STATE CAPTURE

CONTRACT NO.: MW 18/2013

ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 6 562 131.03		R 7 031 166.45		R 105 533.64		R 7 136 921.36
4.5.8		4) Stainless steel mesh grating 1000 x 200mm in ventilation openings	No.	2	R 715.00	R 1 430.00	2	R 1 430.00	0	R 0.00	2	R 1 430.00
4.5.9		Mild steel Sole and base plates to pumps, motors, valves and pipework, painted with Carbomastic 15 or equal approved epoxy.	kg	150	R 77.00	R 11 550.00	150	R 11 550.00	-150	-R 11 550.00	0	R 0.00
4.5.10		Hot Dipped GMS Pipe supports for PN 25 900 ND steel pipe delivery manifold to pump station and for PN 16 800 ND suction manifold, as detailed on the drawing 18-147. Rate to include for degreasing and coating with Carbomastic 15	kg	703	R 77.00	R 54 131.00	703	R 54 131.00	-703	-R 54 131.00	0	R 0.00
4.5.11		Stainless steel (304L) pipe supports for 250 ND steel pipe for sump drainage to pump station, as detailed on the drawing 18-145	kg	50	R 77.00	R 3 850.00	50	R 3 850.00	-50	-R 3 850.00	0	R 0.00
4.6	SABS 1200 HB	CLADDING AND SHEETING										
	8.2.2	Supply and Install Cladding and Sheeting										
4.6.1		a) 0,8mm "Kliplok 406", or equally approved, aluminium roof sheeting laid at 2,5° slope fixed onto purlins and steel roof truss, in strict accordance with manufacturer's specifications. Roof finish to be G4 colourtech coated finish (colour : Dove Grey) to top side and standard factory finish to underside, in strict accordance with manufacturer's specifications.	m²	416	R 264.55	R 110 052.80	416	R 110 052.80	0	R 0.00	416	R 110 052.80
	8.2.3	Supply and Install Ancillaries										
4.6.2		a) 1mm "Kliplok 406", or equally approved, aluminium roof sheeting accessories and flashings, in strict accordance with manufacturer's specifications. Accessories and flashings finish to be G4 colourtech coated finish (colour : Dove Grey), in strict accordance with manufacturer's specifications. 1) Ridge flashing	m	30	R 22.00	R 660.00	356.3	R 8 752.60	0	R 0.00	398.3	R 8 762.60
SUBTOTAL CARRIED FORWARD:						R 6 743 804.83		R 7 220 942.85		R 37 002.64		R 7 257 166.76

CONSORTIUM OF INQUIRY INTO STATE CAPTURE

CONTRACT NO.: MW 18/2013

ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	RATE (R)	AMOUNT (R)	RATE (R)	AMOUNT (R)	RATE (R)	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 6 743 804.83		R 7 220 942.85		R 37 002.64		R 7 257 166.76
4.6.3		Roof Insulation a) 40mm Thick rigid non-combustible lightweight "Factoryboard" insulation (density of 80kg/m3), fixed in between purlins and supported with T-sections along longitudinal joints. Insulation board to have white metallized foil facing finish. Insulation to be installed strictly in accordance with manufacturer's specifications	m²	416	R 110.00	R 45 760.00	416	R 45 760.00	0	R 0.00	416	R 45 760.00
4.7	SABS 1200 HC	CORROSION PROTECTION										
	8.2.1	Surface dressing and repairs at place of fabrication										
4.7.1		1) Hot dipped galvanising a) Steelwork, 150 micron DFT	t	12.82	R 8 800.00	R 112 816.00	12	R 105 600.00	3.885	R 34 186.00	15.885	R 139 788.00
4.7.2		b) Erection bolts Grade 8.8, 70 micron DFT	t	0.20	R 5 500.00	R 1 100.00	0.0758	R 416.90	0.1242	R 683.10	0.2	R 1 100.00
4.7.3	8.2.2	Transport	t	12.82	R 550.00	R 7 051.00	12	R 6 600.00	3.885	R 2 136.75	15.885	R 8 736.75
	8.2.3	Surface preparation and coating application Acid Wash galvanised steel members to degrease before application of Carbomastic 15 Primer to a dry film thickness (DFT) of 75µm and Carbomastic 15, Epoxy Mastic Paint, to a DFT of 125µm										
4.4		b) on site 1) Steelwork	m²	826	R 275.00	R 227 150.00	381.7	R 104 967.50	0	R 0.00	381.7	R 104 967.50
4.5		2) Erection bolts	t	0.30	R 8 800.00	R 2 640.00	0.33	R 2 904.00	0	R 0.00	0.33	R 2 904.00
TOTAL STRUCTURAL WORKS CARRIED FORWARD TO SUMMARY:						R 7 140 321.83		R 7 487 191.25		R 74 010.49		R 7 560 423.01

CONTRACT NO.: MW/18/2013

ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	Billed RATE (R)	Billed AMOUNT (R)	Previously Claimed QTY	Previously Claimed AMOUNT (R)	This Claim QTY	This Claim AMOUNT (R)	Total Claimed QTY	Total Claimed AMOUNT (R)
5		BUILDING WORKS										
		PARTICULAR SPECIFICATION: BUILDING WORK										
5.1		MASONRY										
		Brickwork of NFP bricks in class II mortar										
5.1.1		230mm cavity brick walls	m²	525	R 426.26	R 223 786.50	622.98	R 265 551.45	0	R 0.00	622.98	R 265 551.45
		Bagging of 1:3 cement and sand mixture										
5.1.2		On brickwork walls	m²	525	R 14.75	R 7 743.75	501.38	R 7 395.36	0	R 0.00	501.38	R 7 395.36
		Joint forming material in movement joints										
5.1.3		12mm Fibre board built in vertically/horizontally through brick walls not exceeding 300mm wide	m	373	R 33.00	R 12 309.00	216.64	R 7 149.12	0	R 0.00	216.64	R 7 149.12
		Brickwork reinforcement										
5.1.4		75mm Wide reinforcement built in horizontally	m	3 431	R 4.24	R 14 547.44	1865.13	R 7 908.15	0	R 0.00	1865.13	R 7 908.15
		Galvanised hoop iron cramps, ties, etc.										
5.1.5		30 x 1,6mm Wall tie 500mm long with one end cast into concrete and other end built into brickwork	no	1 458	R 10.40	R 15 163.20	1239	R 12 885.60	0	R 0.00	1239	R 12 885.60
		Stormberg Travertine face bricks pointed with recessed horizontal and vertical joints										
5.1.6		Extra over brickwork for face brickwork in stretcher bond	m²	403	R 366.08	R 147 530.24	508.03	R 185 979.62	0	R 0.00	508.03	R 185 979.62
5.1.7		Extra over brickwork for brick-on-edge header course	m	64	R 45.76	R 2 928.64	117.5	R 5 376.80	0	R 0.00	117.5	R 5 376.80
5.1.8		115 x 75 mm Precast concrete lintels at door openings	m	22	R 47.29	R 1 040.38	42.7	R 2 019.28	0	R 0.00	42.7	R 2 019.28
SUBTOTAL CARRIED FORWARD:						R 425 049.35		R 494 265.39		R 0.00		R 494 265.39

DD34-DCM-691

CONTRACT NO.: MW 18/2013

ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 425 049.15		R 494 265.39		R 0.00		R 494 265.39
5.2		WATERPROOFING One layer of 375 micron "Plastell Brikgrip Blue DPC", or equally approved, embossed damp proof course										
5.2.1		In walls Two coats "Brickseal", or equally approved, bitumen emulsion waterproof coating	m²	33	R 9.90	R 326.70	39.11	R 387.19	0	R 0.00	39.11	R 387.19
5.2.2		On bagged brickwalls	m²	526	R 9.90	R 5 207.40	501.38	R 4 963.66	0	R 0.00	501.38	R 4 963.66
5.2.3		Polyurethane joint sealant in movement joints	m	374	R 33.00	R 12 342.00	219.73	R 7 251.09	0	R 0.00	219.73	R 7 251.09
5.3		CARPENTRY AND JOINERY										
5.3.1		Single timber (FSC Compliant) door including frame and ironmongery complete, including finishing, all as per drawing 03-90-031 size 930 x 2100mm overall (D1)	no	1	R 6 987.93	R 6 987.93		R 0.00	1	R 6 987.93	1	R 6 987.93
5.3.2		Single timber (FSC Compliant) door including frame and ironmongery complete, including finishing, all as per drawing 03-90-031 size 930 x 1750mm overall (D12)	no	1	R 6 437.93	R 6 437.93		R 0.00	1	R 6 437.93	1	R 6 437.93
5.4		METALWORK Roller Shutter Doors										
5.4.1		Heavy duty hot dip galvanised industrial roller shutter door, approximate size 4000mm wide x 3000mm high, all as per drawing 03-90-031, complete (D8+D9)	No	2	R 11 000.00	R 22 000.00	2	R 22 000.00	0	R 0.00	2	R 22 000.00
5.4.2		Heavy duty hot dipped galvanised industrial roller shutter door, approximate size 3500mm wide x 4000mm high, all as per drawing 03-90-031, complete (D1)	No	1	R 11 000.00	R 11 000.00	1	R 11 000.00	0	R 0.00	1	R 11 000.00
5.4.3		Heavy duty hot dipped galvanised industrial roller shutter slats and galvanised frame door, approximate size 900mm wide x 2100mm high, all as per drawing 03-90-031, complete (D2, D5, D10, D11)	No	4	R 5 500.00	R 22 000.00	4	R 22 000.00	0	R 0.00	4	R 22 000.00
SUBTOTAL CARRIED FORWARD:						R 511 351.11		R 561 867.33		R 13 425.86		R 575 293.19

DD34-DCM-692

CONTRACT NO.: MW 18/2013												
ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 511 351.11		R 961 867.33		R 13 425.86		R 575 293.19
5.4.4		Heavy duty hot dipped galvanised industrial roller shutter slats and galvanised frame door, approximate size 2000mm wide x 2400mm high, all as per drawing 03-90-031, complete (D6+D7)	No	2	R 6 600.00	R 13 200.00	2	R 13 200.00	0	R 0.00	2	R 13 200.00
		Gates (cable gallery)										
5.4.5		Hot dipped galvanised sliding / folding steel gates, overall size 8185mm wide x 4050mm high, comprising of four leafs, all plates to have min thickness of 3mm, and round bars min 16mm diameter. All welds to be full penetration and full perimiter welds as per the drawings. (Duplex painting system to colour code)	No	1	R 71 500.00	R 71 500.00	0	R 0.00	1	R 71 500.00	1	R 71 500.00
		Windows										
		Standard Aluminium window sections and frames with clear glazing fixed to structure, installed complete as per drawing 03-90-032										
5.4.6		a) Overall size 6400 x 1800mm high	No	2	R 8 800.00	R 17 600.00	2	R 17 600.00	0	R 0.00	2	R 17 600.00
5.4.7		b) Overall size 5375 x 1800mm high	No	8	R 7 700.00	R 61 600.00	8	R 61 600.00	0	R 0.00	8	R 61 600.00
5.4.8		c) Overall size 4500 x 1800mm high	No	4	R 6 600.00	R 26 400.00	4	R 26 400.00	0	R 0.00	4	R 26 400.00
5.4.9		d) Overall size 4400 x 1800mm high	No	2	R 6 600.00	R 13 200.00	2	R 13 200.00	0	R 0.00	2	R 13 200.00
5.5		PLUMBING AND DRAINAGE										
		Rainwater goods										
5.5.1		Purpose made fibre glass box gutter, size 600mm wide x 200mm deep	m	59	R 990.00	R 58 410.00	59.6	R 59 004.00	0	R 0.00	59.6	R 59 004.00
5.5.2		Extra over for rainwater downpipe outlets, size 125 x 125mm	no	12	R 275.00	R 3 300.00		R 0.00		R 0.00	0	R 0.00
5.5.3		80mm diameter rainwater downpipe cast inside concrete columns	m	111	R 55.00	R 6 105.00	77.7	R 4 273.50	0	R 0.00	77.7	R 4 273.50
5.5.4		Extra over for bends	No	24	R 55.00	R 1 320.00	24	R 1 320.00	0	R 0.00	24	R 1 320.00
5.5.5		Extra over for shoe	No	12	R 55.00	R 660.00		R 0.00		R 0.00	0	R 0.00
SUBTOTAL CARRIED FORWARD:						R 784 646.11		R 758 464.83		R 84 925.86		R 843 390.69

COMMISSION OF INQUIRY INTO STATE CAPTURE

CONTRACT NO.: MW 18/2013

ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 784 646.11		R 758 464.83		R 84 925.86		R 843 390.69
5.6		PUMP WELL FLOOR DRAINAGE										
5.6.1		110mm ND PE63 HDPE drain pipes, including all jointing, installation (lay in floor screed), and connections (adaptors) for floor drains (measured elsewhere)	m	48	R 162.69	R 7 809.12	39.804	R 6 475.71	0	R 0.00	39.804	R 6 475.71
5.6.2		Extra over for bends, and tees	No	20	R 165.00	R 3 300.00	22	R 3 630.00	0	R 0.00	22	R 3 630.00
5.6.3		110 DN CI eared type outlets as per drawing 18-143 (type 1)	No	6	R 165.00	R 990.00	4	R 660.00	0	R 0.00	4	R 660.00
5.6.4		100 DN CI 90° floor drain eared type outlets as per drawing 18-143 (type 2)	No	6	R 165.00	R 990.00	6	R 990.00	0.00	R 0.00	6	R 990.00
5.7		PLASTERING	No									
		Screeds										
5.7.1		Sand : Cement (6:1) screed to roof to falls 150-30mm with edge thickness of 30mm	m²	32	R 101.61	R 3 251.52		R 0.00	32	R 3 251.52	32	R 3 251.52
5.7.2		Sand : Cement (6:1) screed to floors to falls average 70mm	m²	121	R 69.09	R 8 359.89		R 0.00	121	R 8 359.89	121	R 8 359.89
		One coat internal cement plaster on brickwork										
5.7.3		On walls	m²	645	R 68.00	R 43 860.00	611.31	R 41 569.08	0	R 0.00	611.31	R 41 569.08
5.7.4		On walls in narrow widths	m²	8	R 115.15	R 921.20		R 0.00		R 0.00	0	R 0.00
5.8		PAINTWORK										
		One coat professional plaster primer and two coats approved professional pure acrylic low sheen paint (colour : off white), all to the manufacturer's specification.										
5.8.1		On internal walls	m²	653	R 115.50	R 75 421.50	611.31	R 70 606.31	0	R 0.00	611.31	R 70 606.31
SUBTOTAL CARRIED FORWARD:						R 929 549.34		R 882 395.93		R 96 537.27		R 978 933.20

COMMISSION OF INQUIRY STATE CAPTURE

DD34-DCM-694

CONTRACT NO.: MW 18/2013

ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	RATE (R)	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)	QTY	AMOUNT (R)
SUBTOTAL BROUGHT FORWARD:						R 929 549.34		R 882 395.93		R 96 537.27		R 978 933.20
		One coat Interseal 670 to a DFT of 100 - 150 microns and one coat Interthane 990 to a DFT of 50 - 75 microns (Total DFT 100 microns excluding galvanizing)										
5.8.2		On handrails	m	274	R 110.00	R 30 140.00		R 0.00	274	R 30 140.00	274	R 30 140.00
5.8.3	PEF 4.2	Epoxy to floor screed, colours to SANS 1091										
5.8.3.1		Floors in light grey	m²	366	R 220.00	R 80 520.00		R 0.00	366	R 80 520.00	366	R 80 520.00
5.8.3.2		Walkways in green, 1.5m wide yellow borders, 100mm wide	m²	58	R 220.00	R 12 760.00		R 0.00	58	R 12 760.00	58	R 12 760.00
5.8.3.3		Fire fighting points in red stripes and yellow band 1.5m x 1.5m	no.	6	R 660.00	R 3 960.00		R 0.00	6	R 3 960.00	6	R 3 960.00
5.8.4	PEF 4.4	Staircase coloured nosing in yellow	m²	5	R 275.00	R 1 375.00		R 0.00	5	R 1 375.00	5	R 1 375.00
5.8.5	PEF 4.5	Epoxy skirting	m	91	R 137.50	R 12 512.50		R 0.00	91	R 12 512.50	91	R 12 512.50
		MISCELLANEOUS										
		Fire fighting equipment										
5.8.6		9kg Dry powder fire extinguisher, including stainless steel brackets for mounting onto wall	No.	2	R 715.00	R 1 430.00		R 0.00		R 0.00	0	R 0.00
5.8.7		9kg CO_2 fire extinguisher, including stainless steel brackets for mounting onto wall	No.	7	R 935.00	R 6 545.00		R 0.00		R 0.00	0	R 0.00
SUBTOTAL BUILDING WORKS CARRIED FORWARD TO SUMMARY:						R 1 078 791.84		R 882 395.93		R 237 804.77		R 1 120 200.70

COMMISSION OF INQUIRY STATE CAPTURE

DD34-DCM-695

CONTRACT NO.: MW/18/2013

ITEM NO.	PAYMENT	DESCRIPTION	UNIT	QTY	Billed RATE (R)	Billed AMOUNT (R)	Previously Claimed QTY	Previously Claimed AMOUNT (R)	This Claim QTY	This Claim AMOUNT (R)	Total Claimed QTY	Total Claimed AMOUNT (R)
		DAYWORKS										
6	PAA	PARTICULAR SPECIFICATION: DAYWORKS										
6.1		LABOUR										
6.1.1		Supervisor	hour	0		included		Included		Included		included
6.1.2		Foreman	hour	200	R 280.00	R 56 000.00		0.00		0.00	0.00	0.00
6.1.3		Pipe Fitter	hour	10	R 65.00	R 650.00		0.00		0.00	0.00	0.00
6.1.4		Unskilled Labourer	hour	400	R 37.80	R 15 120.00	678.00	25628.40	0.00	0.00	678.00	25628.40
6.1.5		Skilled Labourer	hour	100	R 59.50	R 5 950.00	54.00	3213.00	0.00	0.00	54.00	3213.00
6.1.6		Welder (Boiler Maker)	hour	20	R 435.00	R 8 700.00		0.00		0.00	0.00	0.00
6.1.7		Painter	hour	20	R 59.50	R 1 190.00		0.00		0.00	0.00	0.00
6.1.8		Rigger	hour	10	R 275.00	R 2 750.00		0.00		0.00	0.00	0.00
6.2		PLANT										
6.2.1		10 Ton Truck with Crane	km	300	R 80.00	R 24 000.00		0.00		0.00	0.00	0.00
6.2.2		Light Delivery Van (Bakkie)	km	2000	R 8.00	R 16 000.00		0.00		0.00	0.00	0.00
6.2.3		Grinder	hour	20	R 50.00	R 1 000.00	48.00	2400.00	0.00	0.00	48.00	2400.00
6.2.4		Pipe cutting tools (plastic)	hour	20	R 50.00	R 1 000.00	0.00	0.00		0.00	0.00	0.00
6.2.5		Welding machine (Diesel Driven)	hour	20	R 150.00	R 3 000.00	0.00	0.00		0.00	0.00	0.00
6.2.6		50t Mobile Crane	hour	40	R 1 950.00	R 78 000.00	0.00	0.00		0.00	0.00	0.00
6.2.7		Compressor and Jack Hammer	hour	10	R 300.00	R 3 000.00	18.00	5400.00	0.00	0.00	18.00	5400.00
6.3		MATERIALS										
6.3.1		(a) Materials for Dayworks not covered under other rates in the Contract. (Provisional)	Prov. Sum	1	R 50 000.00	R 50 000.00		0.00		0.00	0.00	0.00
6.3.2		Overheads and profits on (a)	%	10.00%	R 50 000.00	R 5 000.00		0.00		0.00	0.00	0.00
SUBTOTAL DAYWORKS CARRIED FORWARD TO SUMMARY:						R 271 360.00		R 36 641.40		R 0.00		R 36 641.40

COMMISSION FOR INQUIRY STATE CAPTURE

DD34-DCM-696

MHLATHUZE WATER

CONTRACT No: MW/18/2013, INSTALLATION OF STRUCTURAL & CIVIL WORKS FOR THE NSEZI CITY OF MHLATHUZE HIGH LIFT PUMPSTATION

Summary of Contingencies as Cert No. 15

S.I No	Description	Unit	Qty	Rate	Amount
012	Student Laptops and Accessories	Sum	1.00	R 91 044.54	R 91 044.54
030	Claim #1: Unforseen conditions	sum	1.00	R 401 382.26	R 401 382.26
47	Claim #2: Change inTechnical Details	sum	1.00	R 50 625.24	R 50 625.24
	Vo #3: Suction Side Tie-in	sum	1.00	R 187 853.00	R 187 853.00
	VO #4: Surge Vessel	sum	1.00	R 2 160 405.87	R 2 450 492.23
	VO #5: Acceleration of works	sum	1.00	R 1 089 395.78	R 1 089 395.78
	VO #6: Overhead Crane Rails	sum	1.00	R 119 100.00	R 119 100.00
084	VO #9: Crawl Beam & Chain block	sum	1.00	R 37 566.00	R 37 566.00
089	VO #10: Payment to External contractor	sum	1.00	R 772 769.37	R 772 769.37
	VO #??: Additional works by Subtech due to obstruction	sum	1.00	R 56 362.00	R 56 383.00
	VO16-payment to external contractor	sum	1.00	R 805 211.00	R 805 211.00

AFROSTRUCTURES (Pty) Ltd.

CONTRACT No. MW/18/2013

Installation of Nsezi High lift Pump Station

CONTRACT PRICE ADJUSTMENT SCHEDULE (CPA Factor x Ac)

CONTRACT NO.	MW/18/2013
CERTIFICATE NO.	15
MONTH	15

Base Month	Lo	Eo	Mo	Po
Nov-13	104.9	110.4	107.10	108.6
Factor	0.2	0.25	0.55	0.05

CPA Factor (Pn)=0.1+0.2(Ln/Lo)+0.1(En/Eo)+0.55(Mn/Mo)+0.05(Fn/Fo)

Cert No.	Month	Month Indices				CPA Factor		Value Carried forward from CPA table	Contract Price Adjstment	
		Lt	Pt	Mt	Ft	Final	Provisional		Provisional	Final
1	Mar-14	0.00	0.00	0.00	0.00	0.00	0.00	0.00		0.00
2	Apr-14	109.10	117.50	112.60	116.40	0.05	0.00	2 183 484.96		101 039.84
3	May-14	109.40	117.70	112.40	114.50	0.05	0.00	708 259.50		31 960.82
4	Jun-14	109.50	116.70	112.40	114.00	0.04	0.00	3 171 030.66		140 097.79
5	Jul-14	110.90	116.30	112.00	113.60	0.04	0.00	1 195 251.49	0.00	52 888.80
6	Aug-14	111.00	117.20	112.00	112.20	0.04	0.00	1 407 973.46	0.00	62 810.26
7	Sep-14	110.90	117.20	113.20	110.60	0.05	0.05	1 021 447.70	0.00	50 914.63
8	Oct-14	111.00	117.10	113.20	104.20		0.05	2 328 852.44	0.00	109 453.84
9	Nov-14	110.80	117.10	114.00	97.90		0.05	3 510 941.94	0.00	167 912.51
10	Jan-15	110.00	118.00	111.30	78.50		0.02	3 188 168.61	0.00	77 530.00
11	Feb-15	110.50	118.20	111.70	78.50		0.03	1 528 091.55	0.00	42 032.66
12	Mar-15	110.50	118.20	111.70	78.50		0.03	1 835 254.18	50 481.68	
13	Apr-15	110.50	118.20	111.70	78.50		0.03	2 083 459.19	57 308.96	
14	May-15	110.50	118.20	111.70	78.50		0.03	1 582 472.00	43 528.49	
15	Jun-15	110.50	118.20	111.70	78.50		0.03	1 802 246.76	49 573.75	
TOTAL TO COVER PAGE							TOTALS	27 546 934.45	200 892.88	836 641.16
									1 037 534.03	

1 037 534.03 Check

INDICES	
Month	STATUS
april	final
may	final
june	final
july	final
aug	final
Sep	final
Oct	final
Nov	final
Jan	final
feb	final
feb	prov
feb	prov

DD34-DCM-698

AFROSTRUCTURES (Pty) Ltd.	CONTRACT NO.	MW/18/2013
CONTRACT No. MW/18/2013		15
Installation of Nsezi High lift Pump Station		16
CONTRACT PRICE ADJUSTMENT AMOUNT (Ac)		

TOTAL VALUE OF WORK DONE		27 719 432.95
TOTAL VALUE OF MATERIALS ON SITE		0.00
TOTAL VALUE OF VARIATION ORDERS/EXTRA WORKS		0.00
	SUB TOTAL	27 719 432.95
LESS:		0.00
EXTRA WORK (NON ESCALATABLE)		
DAY-WORKS (NON ESCALATABLE)		
	SUB TOTAL	27 719 432.95
LESS:		172 498.50
PROVISIONAL SUMS	SUB TOTAL	27 546 934.45
LESS:		25 744 687.69
CONTRACT PRICE ADJUSTMENT FROM PREVIOUS CERTIFICATE		
TOTAL AMOUNT ESCALATABLE= Ac (TO CONTRACT PRICE ADJUSTMENT SCHEDULE)		1 802 246.76

COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-699

Autoreport

Mhlathuze Water

Bank account	Name	Bank account number	Routing number
FNB	AFROSTRUCTURES (PTY0 LTD	50810091492	221626

MHLATHUZE
WATER • AMANZI

REPORT ON THE INVESTIGATION INTO IRREGULAR, FRUITLESS & WASTEFUL EXPENDITURE : CONSULTING ENGINEER: AECOM; PROJECT CONSTRACTORS: AFROSTRUCTURES & KLOMAC; SUB-CONTRACTORS: MDIMA CIVILS: PROJECT NAME: COU HIGHLIFT PUMPSTATION: AMOUNT: R2 100 000.00 (VO 008), R1 662 604.30 (VO 016), R2 053 066.72 (VO 020)

ANNEXURE P

Prepared by

MHLANGA INC.
Attorneys & Conveyancers

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MHLATHUZE

DOCUMENT TITLE

DELEGATIONS POLICY

POLICY

The purpose of this Policy is to adopt a new set of delegations of authority within Mhlathuze Water.

BRIEF DESCRIPTION OF CHANGE

Amendments to Matters requiring Board Approval

APPROVAL

Approved by the full Board at its meeting of **20 May 2015**

DC MYENI
CHAIRPERSON

DATE: 20/05/2015

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1. PURPOSE

This Delegations Policy is established to define the limits of authority designated to specified positions of responsibility within Mhlathuze Water. The policy shall determine the types and maximum amounts, of the organisation obligations that may be approved by executives.

2. ROLES AND RESPONSIBILITIES

In terms of section 37, of the Water Services Act, No. 108 of 1997; a Water Board may delegate any operational powers to a Committee of the Board, its Chief Executive Officer and/or any of its employees.

The general powers and authority levels are approved by resolution of the Board. The Chief Executive Officer ("CEO") is authorised to delegate internal authority limits within these levels. The primary roles and responsibilities in relation to delegation of authority rest with the:

- Committee of the Board;
- Chief Executive Officer; and
- Staff with delegations.

The Chief Financial Officer ("CFO") is responsible for ensuring compliance with this policy.

3. BOARD RESOLUTION

3.1 The following contracts/actions require Board approval:

- Any acquisition of services which will result in service/business contracts of more than twelve months duration accounting for more than 2.5% of annual revenue or a value of R5 million and above; that is not part of the approved budget.
- Any acquisition of goods which will result in purchase contracts of more than twelve months duration accounting for more than 2.5% of annual expenditure costs; that is not part of the approved budget.
- Major litigation proceedings for damages in excess of R1 million;
- Other material contracts (e.g. related parties);
- Long term funding arrangements;
- Appointment of External and Internal Auditors;
- Investments in institutions other than Board approved institutions;
- Approval of the Tariff policy;
- New Projects and related tariffs for new customers (after recommendation by EXCO).
- Major capital projects and the budgets thereof; that is not part of the approved budget.
- Annual tariff increases; and
- Unresolved objections to tariffs from consumers.

3.2 The authority levels approved by the Board on 18 May 2015 are in Rand terms.

3.3 Banking Signatories

The following approval is required for:

- Agreements & contracts (including letters of intent) other than those noted in 3.1
- Payments (e.g. cheques, EFT, manual payments, guarantees)

- Value rule for ABSA Business Integrator "A+A" or "A+B"

A Level Signatories	Limits	B Level Signatories	Limits
Chief Executive Officer	Unlimited	General Manager Scientific Services	Unlimited
Chief Operations Officer	Unlimited	SnrManagement Accountant	Unlimited
Chief Financial Officer	Unlimited	Financial Accountant	Unlimited
General Manager Corporate Services	Unlimited	Cash Management Accountant	Unlimited

3.4 Contracts

Written contracts are mandatory for the following:

- Orders for goods and services which have a duration exceeding twelve months;
- Orders for construction, manufacture, goods and or services exceeding one million rand (R1 million), excluding VAT, except for once off purchases of capital goods (e.g. mobile equipment, machinery).

All agreements and contracts, (and any changes or variations to such agreements) other than approved purchase orders, must be routed to the Chief Executive Officer/ Company Secretary to ensure that they are correctly authorised and that the originals are filed as valuable documents.

4. OPERATING COSTS (Refer to "DOA Signatory List")

4.1 The internal authority limits for expenditures within approved operating cost budgets are:

Level of Management	Role	Authority Limits (R)
F	CEO	>Unlimited
E1	Head of Department	<5,0 million
D3	Manager	<2,0 million
C5-D3	Technologist//Engineers	<500,000
D2/C5	Project Managers/Superintendents	<100,000
D3/D2	Cost Centre Owners	<50,000

Note: The above limits do not override the annexure, "Delegation of Authority Signatory List" for this policy.

4.2 The internal authority of the CEO for emergency break-downs, outside budget is not limited. However the CEO will inform the Board at the first meeting after such an incident of the estimated costs and effect on services and how such costs will be recovered.

4.3 Where authority levels are delegated to employees below supervisor level this delegation of authority must be approved by the Head of Department Level.

4.4 The internal authority of the CEO for emergency cases, outside budget is not limited. However the CEO will ratify the Board at the first meeting after such an incident of the estimated costs, the effect on services or the environment and how such costs will be recovered.

4.5 The authority limits for credit notes and adjustments to customers are:

Role	Authority Limits (R)
CEO	<5,0 million
Chief Financial Officer	<500,000

All credit notes are required to be authorised by a Panel "A" signatory.

5. CAPITAL EXPENDITURE (Refer to "DOA Signatory List")

5.1 The Board has delegated the following authority limits for capital expenditure to the CEO:

	Authority Limits (R)
• Accumulated capital expenditure not in approved budget.	< 1 million

5.2 Scope changes, up to 10% of budget require the CEO's approval and all changes above 10% of budget require Board approval.

5.3 The authority limits for the purchase of goods and materials within an approved capital expenditure vote are as follows:

Level of Management	Role	Authority Limits (R)
F	CEO	Unlimited
E1	Head of Department	<5,0 million
D3	Manager	<2,0 million
C5-D3	Technologist//Engineers	<500,000
D2/C5	Project Managers/Superintendents	<100,000
D2	Project Manager	<50,000

6. SALE OF SCRAP

The authority limits for scrap sales (other than sales in terms of approved contracts) are:

Role	Authority Limits (R)
CEO	>1 million
Chief Financial Officer	<1 million

7. PURCHASE ORDERS

7.1 General

The signing of orders is in connection of approval limits as per Annexure C.

7.2 Purchase Order Variation

The authority limits on variations to purchase orders for operating and capital expenditure are:

Level of Management	Role	Authority Limits (R)
F	CEO	>1 million
E1	Heads of Departments'	<1 million

7.3 Contract Variation Interactions (CVI)

A site instruction issued by a clerk of works or superintendent/engineer is required for any order variation together with a CVI, the number of which is to be referenced in the order amendment. The CVI's should be compiled and authorised as per paragraph 7.2 prior to the work commencing.

8. DISPOSAL OF ASSETS

The limits authority for disposal of assets must be approved as follows:

Level of Management	Role	Authority Limits (R)
	Board	7 million and above
F	CEO	Between 1 and 7 million
E1	Chief Financial Officer	<1 million

In addition, the disposal of fixed plant assets requires the approval of the Chief Operations Officer ,Operations Manager and Maintenance Manager. The disposal of mobile equipment assets requires the approval of the relevant Managers.

9. DONATIONS

All donations of company assets are required to be approved by the Executive Committee (EXCO), which is chaired by the CEO. All donations of such assets to a single beneficiary exceeding R20 000 are to be approved by the Board.

10. RESTRICTED APPROVAL

Certain commodities that are designated as "restricted items" require the additional approval of the officials listed in Annexure "A".

11. STORES INVENTORY ADJUSTMENTS

All loss adjustments for Stores inventory must be approved as follows:

Level of Management	Role	Authority Limits (R)
F	CEO	>5 million
E1	Chief Financial Officer	<5 million

12. DISPOSAL OF ROTABLE/REPAIRABLE ASSETS THAT ARE TO BE REPLENISHED

The authority limits for the disposal of rotable/repairable assets that are to be replenished are:

Level of Management	Role	Authority Limits (R)
F	CEO	<1 million
E1	Chief Financial Officer	<500,000

An instruction for disposal of all rotable/repairable assets must be sent to the Supply Chain Management so that replenishment can be initiated. The SCM Manager must submit a monthly report to the Chief Financial Officer on the net impact on the inventory balance on rotables/repairables replenished.

13. HUMAN RESOURCES

13.1 The following matters require Board approval:

- Appointment of the CEO;
- Appointment of Heads of Departments (after recommendation by the CEO);
- General budget salary increases;
- Executive Management salary adjustments (after recommendation by the Board Committee responsible for remuneration);
- Approval of the Mhlathuze Water's organogram and the establishment and disestablishment of positions.

13.2 Appointments of other positions within the approved budget are motivated by each Head of Department.

13.3 Salary adjustments of all other staff (excluding Exco) are approved by the CEO.

13.4 Change of Job titles and Job grading (excluding Exco) are approved by the CEO

14. AUTHORISATON OF TRAVEL AND APPROVAL OF TRAVEL CLAIMS

Authorisation of travel for, and travel expenditure claims of -

- all employees other than the CEO and Heads of Departments' shall be approved by the Head of Department together with GM: Corporate Services
- Heads of Departments' shall be approved by the CEO;
- The CEO and Board members shall be approved by the Chairperson of the Board;
- The Chairperson of the Board shall be approved by delegated authority (DWS).

15. LITIGATION

15.1 Actions and applications by Mhlathuze Water, other than those in noted in 3.1 must be approved by the

CEO	≤ R1million
Board	> R1million

15.2 The defence of actions and applications against Mhlathuze Water, other than those noted in 3.1, are subject to the approval of the Chairperson of the Board or the CEO.

16. SUPPLY CHAIN MANAGEMENT POLICIES

Awarding of Tenders/ Bids for goods and services exceeding R500, 000 (VAT inclusive);
The Bid Adjudication Committee will recommend all tenders/bids to be awarded to the CEO to approve and appoint the bidder.

Reference to the Supply Chain Management Policy should be made for further delegations not included in this policy.

17. INSURANCE

The authority limits for insurance claims must be approved as follows:

Level of Management	Role	Authority Limits (R)
F	CEO	>5,0 million
E1	Head of Department	<5,0 million
D3	Manager	<2,0 million
C5-D3	Technologist/Engineers/Technicians	<500,000
D2/C5	Project Manager/Superintendents	<100 000
C5	Assets Accountant	<50,000

18. ACTING DELEGATIONS

The authority limits for all employees delegated to "Act" in a position senior to their current position must be amended/ increased on the IT System (i.e. Dynamic AX) to correspond with the senior employee's authority limits per Delegations Policy and DOA Signatory List.

The Change Control Form: Authority Limits (Annexure B) should be completed and authorised by the Chief Financial Officer (CFO).

19. MOVEMENT OF FUNDS

- Movement of funds between cost centre's requires the approval of the HOD.
- Movement of funds within the scheme in consultation with the CEO.
- Movement of funds between section 29 and 30 requires the approval of the Board.

20. REVIEW HISTORY

REVIEW HISTORY			Policy No. POL 010	Rev No. 04
REV NO.	DATE	PAGE No.	DETAILS	
03	27 May 2011	3	Bank signatory and value rules	
03	27 May 2011	4	Added 4.5 Internal authority of the CEO	
04	24 October 2013	All	Delegation of Authority Document	
05	18 May 2015	All	Delegation of Authority Document	

REVISION AND RECOMMENDATION			
POSITION	NAME	DATE	SIGN
Chief Financial Officer: (Custodian and Administrator)	Mr BS Ndaba		

COMMISSION OF INQUIRY INTO STATE CAPTURE

Annexure A

COMMODITIES THAT ARE CLASSIFIED AS RESTRICTED AND REQUIRE ADDITIONAL APPROVAL

The following types of commodity are considered 'restricted items' and require further approval as indicated below before any purchase can be committed:

General Manager Corporate Services	-	Cameras Office equipment such as videos, hi-fi's Telephones Televisions (NB. require licence) Safety equipment and clothing
Relevant HOD	-	Cellular Phones
Manager IT	-	Computer Equipment Computer Software Photocopiers, scanners and faxes
Maintenance Manager/Chief Operations Officer/Operations Manager	-	Electrical Equipment High Tension Equipment
Maintenance Manager/Chief Operations Officer/Operations Manager		Instruments
CEO	-	Vehicles
Operations Manager/Chief Operations Officer	-	Mobile Communication Units (Radios) Chemicals
General Manager Corporate Services /Maintenance Manager		Fire Equipment

Annexure B

MHLATHUZE

CHANGE IN CONTROL FORM: AUTHORITY LIMITS

System User Details

First Name: _____ Initials: _____

Surname: _____ Title: _____

Employee Number: _____ Email Address: _____

Employees Job Title: _____ Management Level: _____

Department: _____ HOD: _____

Current Authority Limits: Capital Budget: _____

Operational Budget: _____

Acting Details

Acting Job Title: _____ Management Level: _____

Department: _____ HOD: _____

Acting Authority Limits: Capital Budget: _____

Operational Budget: _____

Start Date: _____ End Date: _____

Approved By (HOD): _____ Date: _____

Signature: _____

Authorised By (CFO): _____ Date: _____

Signature: _____

Received and Implemented By (IT Manager): _____

Signature: _____ Date: _____

COMMISSION OF INQUIRY INTO STATE CAPTURE

Annexure C

MHLATHUZE

DELEGATED SIGNING AUTHORITY

- **Chief Executive**

Operational Budget/ Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
Chief Executive Officer	F	Unlimited
Company Secretary	D3	500 000.00
Risk Manager	D3	500 000.00
Internal Auditor		500 000.00

Capital Budget/ Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
Chief Executive Officer	F	Unlimited
Company Secretary	D3	500 000.00
Risk Manager	D3	500 000.00
Internal Auditor		500 000.00

- **Finance**

Operational Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
Chief Financial Officer	E1	Unlimited
Financial Controller	D3	500 000.00
Supply Chain Manager	D3	500 000.00
Snr Management Accountant	D3	500 000.00
Financial Accountant	D2	50 000.00
Management Accountant	D2	50 000.00
SCM Specialist	C5	50 000.00
Assets Accountant	C5	50 000.00
Buyer	C2	5000.00
Buyer	C2	5000.00
Buyer	C2	5000.00

Capital Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
Chief Financial Officer	E1	Unlimited
Financial Controller	D3	500 000.00
Supply Chain Manager	D3	500 000.00
Snr Management Accountant	D3	500 000.00
Financial Accountant	D2	50 000.00
Management Accountant	D2	50 000.00
SCM Specialist	C5	50 000.00
Assets Accountant	C5	50 000.00
Buyer	C2	5000.00
Buyer	C2	5000.00
Buyer	C2	5000.00

- **Corporate Services**

Operational Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
General Manager Corporate Services	E1	5 000 000.00
IT Manager	D3	100 000.00
HR Manager	D3	100 000.00
PR Manager	D2	100 000.00
Training & Development Specialist	D1	50 000.00
Health & Safety Specialist	D1	50 000.00

Capital Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
General Manager Corporate Services	E1	5 000 000.00
IT Manager	D3	100 000.00
HR Manager	D3	100 000.00
PR Manager	D2	100 000.00
Training & Development Specialist	D1	50 000.00
Health & Safety Specialist	D1	50 000.00

- **Operations, Maintenance & Projects**

Operational Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
Chief Operations Officer	E1	5 000 000.00
Maintenance Manager	D4	2000 000.00
Operations Manager	D3	2000 000.00
Program Manager	D4	2000 000.00
Planning & Development Manager	D3	500 000.00
Project Manager	D2	50 000.00
Project Manager	D2	50 000.00
Project Manager	D2	50 000.00
Process Technologist (Nsezi)	D1	50 000.00
Superintendent (Pumpstation)	C5	50 000.00
Superintendent (Nsezi)	C5	50 000.00
Maintenance Supervisor	C5	50 000.00
Supervisory Artisan (Nsezi)	C4	50 000.00
Superintendent (Nsezi)	C4	50 000.00
Superintendent (Weir)	C4	50 000.00

Capital Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
Chief Operations Officer	E1	5 000 000.00
Maintenance Manager	D4	2 000 000.00
Operations Manager	D3	2 000 000.00
Program Manager	D4	2 000 000.00
Planning & Development Manager	D3	500 000.00
Project Manager	D2	50 000.00
Project Manager	D2	50 000.00
Project Manager	D2	50 000.00
Process Technologist (Nsezi)	D1	50 000.00
Superintendent (Pumpstation)	C5	50 000.00
Superintendent (Nsezi)	C5	50 000.00
Maintenance Supervisor	C5	50 000.00
Supervisory Artisan (Nsezi)	C4	50 000.00
Superintendent (Nsezi)	C4	50 000.00
Superintendent (Weir)	C4	50 000.00

- **Scientific Services**

Operational Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
GM: Scientific Services	D4	5 000 000.00
Environmental Manager	D3	100 000.00
Quality Officer	D1	100 000.00
Chemist	C5	50 000.00
Microbiologist	C5	50 000.00

Capital Budget/Purchase of Goods and Materials within Approved Budgets

DESIGNATION	MANAGEMENT LEVEL	AUTHORITY LIMITS (RANDS)
GM: Scientific Services	D4	5 000 000.00
Environmental Manager	D3	100 000.00
Quality Officer	D1	100 000.00
Chemist	C5	50 000.00
Microbiologist	C5	50 000.00

DM7

Final report on the forensic investigation into SAA's profitability, procurement and governance issues

Prepared for:

South African Airways: Ms Dudu Myeni

Released:

9 October 2017

STRICTLY CONFIDENTIAL

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DRAFT

1. EXECUTIVE SUMMARY

1.1. Background

1.1.1. ENSafrica Forensics ("**ENS**") in partnership with Sekela Xabiso, a black-owned professional financial consulting firm ("**SKX**"), was appointed to conduct an independent commercial investigation into certain financial matters at SAA.

1.1.2. The background to our appointment is that SAA's financial performance has been unacceptable over many years. Losses have magnified and the company is increasingly reliant on government guarantees to raise funding. The cost of funding constantly increases, further exacerbating the financial difficulties. We understand that it has become almost impossible to fund capital assets on the balance sheet requiring higher leasing/funding costs.

1.1.3. ENS have performed a number of investigations for SAA in recent years and have extensive first-hand knowledge of irregularities perpetrated by employees, including senior executives of the airline. Many of these irregularities have highlighted significant negligence and mismanagement, as well as acts of dishonesty, which have **potentially prejudiced** the airline. During our prior investigations into irregularities involving senior management, we helped the SAA Board to stop several long-term contracts that would have resulted in fruitless and wasteful expenditure to the value of over **R1 billion.**

1.2. The mandate of the investigation

As per our instructions from the Board, the commercial investigation, which we were requested to perform, in collaboration with our financial consulting partner SKX, will address the losses and governance issues raised above, but will also have specific regard to:

1.2.1. Profitability planning and analysis;

1.2.2. Cash planning and management;

1.2.3. Financial controls;

1.2.4. Monitoring of performance plans and budgets;

1.2.5. Responses to poor performance (consequence management);

1.2.6. Monitoring of contracts (delivery and costs);

1.2.7. Cost management of the major operational activities;

1.2.8. Funding costs and arrangements;

1.2.9. Organisational structure and capacity and division of duties;

1.2.10. The procurement process, both from a compliance perspective and the commerciality of contracts entered into;

1.2.11. The effectiveness of PFMA compliance and delegation of control framework;

1.2.12. Review revenue streams and ensure appropriate accounting controls are in place; and

1.2.13. We have agreed to carry out a specific analysis, inter alia, pertaining to the following general areas of SAA's operations:

1.2.13.1. Amadeus revenue recognition;

1.2.13.2. InterVistas – fleet/network planning;

1.2.13.3. Star Alliance contract;

1.2.13.4. Voyager - loyalty awards programme;

1.2.13.5. Monitoring of quarterly performance;

1.2.13.6. Performance compared to competitors;

1.2.13.7. Analysis of loss/balance sheet;

1.2.13.8. External audit firm considerations;

1.2.13.9. Group strategic documents;

1.2.13.10. Reports to the Parliamentary Monitoring Group; and

1.2.13.11. Insurance cover.

1.3. We have performed several other investigations in respect of which we have identified corruption concerns. These investigations and the reports related thereto do not form part of this assignment which as conveyed above is focused on governance, addressing revenue leakages and costs containment.

1.4. Procedures performed

1.4.1. Overall procedures performed

Our findings are based on the investigation that we have performed, the interviews that we have conducted and the documentation that we have assessed. We looked at cost compression and revenue leakage areas, in consultation with the management team at SAA. This process resulted in the identification and confirmation of various areas, where management of SAA can achieve significant cost savings or improved earning capacity.

1.4.2. Long-Term Turaround Strategy (LTTS) initiatives

Many of these findings and initiatives were previously identified by the Executive Committee ("Exco") under the Long-Term Turaround Strategy ("LTTS") – June 2013 document, but were not initiated or failed to progress, as a result of various constraints, including *inter alia*, management changes, lack of co-ordination and follow through, staffing constraints, poor governance, etc;

1.4.3. Management's comments to our findings

Our findings have been updated to include management comments relating to the three main sections being Revenue, Pilot Costs and Procurement. We have attached **Annexure B Annexure D**, which relates to comments from various representatives within the Supply Chain Department, including the Acting Chief Procurement Officer, Mr Lester Peters. All findings relating to Pilot Costs have been presented to the Executive of SAA prior to completion.

1.5. Revenue leakage and protection

1.5.1. The Airline Revenue Integrity Group ("ARIG") believes that leakage is costing airlines as much as 3% of revenue;

1.5.2. At SAA revenue leakage could be detected, and recovered through improved revenue protection initiatives, better governance and enhanced internal controls and procedures;

1.5.3. Since inception of this assignment, together with management we have identified numerous areas of potential revenue leakage which are set out in table 1 and amount to **R766.394 million** (each area of potential revenue leakage is set out in detail below – table 1);

1.5.4. We also identified areas of potential revenue leakage that could not be quantified by management due to the absence of reliable information / data (see table 1 below). A quantification of these areas could result in the detection of potential revenue leakage and an opportunity to increase revenues if reliable information was gathered;

1.5.5. The **R766.394 million** potential revenue leakage and revenue optimisation is in addition to potential cost savings and increased revenue specifically related to pilot costs and benefits of **R964.4 million**, (as set out in table 2). This report provides the details on the findings of these initiatives which, to date, amount to a total of approximately **R1.73 billion**.

Table 1: Areas of potential revenue leakage identified by ENS and SKX

Area of potential revenue leakage	**Expected net savings (R'million)**
Quantifiable:	
Ticket fare audits	154.899
Ticket tax audits	118.347
Interline related adjustments	80.000
Potential Interline adjustments	132.810
Refund audits of GSA & own sales	12.000
Ancillary revenue	280.326
Total expected revenue savings	**766.394**
Areas that cannot be quantified:	
Interline revenue leakage due to processing errors	Not quantifiable
Incremental Interline revenue	Not quantifiable
Ticket tax processing errors	Not quantifiable

Area of potential revenue leakage	**Expected net savings (R'million)**
Tickets issued by Agents and OTA's	Not quantifiable
APRA - Amadeus exception reports	Not quantifiable

Table 2: Potential cost savings and increased revenue related to renegotiation of Pilots Regulatory Agreement

Flight deck crew savings if the Regulatory Agreement is renegotiated	**Expected net savings (R'million)**
Simulator/check allowances	21.400
Travel benefit	185.000
Sick leave	46.000
Leave	49.000
Maternity leave	7.800
Reduction of leave liability	152.600
Salary adjustment	273.700
Productivity improvement	193.800
Hotel and subsistence allowance	35.100
Total	**964.400**

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1.6. Absence of ticket fare audits

1.6.1. The Industry norm as quoted by Amadeus and Mercator is that conservatively 3%-5% of ticket fares and taxes not verified could be in error. Incorrect ticketing by SAA's own sales offices and General Sales Agents ("GSA's") results in revenue leakage. This area of revenue leakage is primarilty attributable to inadequate resourcing. The Revenue Accounting Department (Accounting Control and Revenue Protection) currently has insufficient staff resources to detect, prevent and recover monies lost due to incorrect ticketing;

1.6.2. The GSA agreements provide for the recovery of revenue losses due to incorrect ticketing. Using an average error rate of 0.6%, which was identified for the period July 2014 to February 2015, we then took the full year sales figures for the last two financial periods to determine the total potential revenue lost due to the absence of fare and tax ticket audits; and

1.6.3. Using the industry norms we have extrapolated that with an error rate that can range from as low as 3% to as high as 5%. In 2016, 3% equates to a potential revenue leakage of **R154 million per annum**.

1.7. Absence of ticket tax audits

1.7.1. The Industry norm as quoted by Amadeus and Mercator is that conservatively 3%-5% of ticket fares and taxes not verified could be in error;

1.7.2. Incorrect ticketing by SAA own sales offices and GSA's affects the tax portion resulting in revenue losses. There are currently insufficient staff resources in Revenue Accounting (Accounting Control and Revenue Protection) to perform audits and recover monies lost due to incorrect ticketing;

1.7.1. The industry norm as quoted by Amadeus and Mercator is that, conservatively, 3% to 5% of sales not verified could be in error, with a loss of revenue to SAA. Therefore we have extrapolated that with an error rate that can range from as low as 3% to as high as 5%. In 2016, 3% of the tax portion not being audited equates to a potential revenue leakage of **R118 million per annum**.

1.8. Interline related adjustments

1.8.1. Potential revenue leakage as a result of, the quality and outcome of Interline agreements, Revenue Accounting system defects, the ineffective utilization of Amedues and interline processing errors (industry specific risks) cannot be quantified. SAA's Interline net gain/(loss) adjustment, due to the above errors that was processed through the income statement for the financial period April 2015 to November 2015 amounted to **R80 million**;

1.8.2. The processing errors are due to a lack of meaningful and effective reports to assist with the evaluation of the quality and outcome of the Interline agreements implemented by SAA. In addition the Amadeus Passenger Revenue Accounting (APRA) system has deficiencies that affect coding of some of the Interline agreements. Whilst IATA has enforced stricter coding of Interline invoices some airlines are still lagging behind which affects quality of their billing;

1.8.3. Furthermore invoicing of other airlines is verified on an exception-by-exception basis and, at present, it is not possible to ensure that all invoices are accurately raised against other airlines. Therefore SAA may be under-collecting revenue from other airlines; and

1.8.4. The verification of Interline outward billings against other airlines is currently only limited to exceptions identified (only the values detected from the high / low report are selected for verification). The middle values could be inaccurate resulting in a potential area of revenue leakage..

1.9. Potential Interline adjustments as at March 2016

1.9.1. "IATA believes its own interline settlement improvements can save the industry USD500 million annually, but this is dependent on airlines embracing tools and standards";

1.9.2. Potential revenue leakage as a result of, the quality and outcome of Interline agreements, Revenue Accounting system defects, the ineffective utilization of Amedues and interline processing errors (industry specific risks) cannot be quantified. SAA currently has a provision for potential interline net gains / (losses) of **R147 million** (at year-end March 2016), in particular where SAA overbill other airlines due to reference table coding errors. According to Mr Mellett, 90% of the **R147 million (i.e. R132 million)** is likely to be released from this provision and written back to the income statement. The loss adjustments

are largely attributable to the complex Interline agreements, which result in processing and billing errors on inward and outward billings by the Revenue Accounting Department;

1.9.3. Other possible causes of interline processing errors which lead to the gain/(loss) adjustments include the following:

1.9.3.1. SAA sells tickets (SAA IATA code 083) with flight itineraries that extend beyond the SAA route network and therefore receive claims from those airlines for the 'revenue share', tickets taxes and commission that those airlines are entitled to. Other airlines selling their own tickets with their unique IATA selling code also participate on the SAA route network and therefore SAA must claim the revenue share, taxes and commission that SAA is entitled to from those airlines;

1.9.3.2. The revenue share is based on various fares and penalty clauses that are negotiated between airlines and documented in Interline agreements approved by the SAA commercial Department. The negotiated fares, rules and penalty clauses are coded into SAA's Revenue Accounting system and at the time of sale the total ticket price is pro-rated (value broken down and allocated to each flight sector on the ticket);

1.9.3.3. All airlines with Interline agreements are exposed to the risk that the airline with the best analytics and supporting data will negotiate the best deals, as they can steer the other airline toward their goal of optimizing their revenue share;

1.9.3.4. SAA has no meaningful and effective reports to assist with the evaluation of the quality and outcome of the Interline agreements implemented by SAA. The Interline agreements are managed by SAA's Commercial Department; and

1.10. Delays in Interline settlements also result in potential revenue leakage as the timeframe before an Interline transaction is finalized can be more than 12 months from rendering of service. **Refund audits of GSA & own sales**

1.10.1. Currently Zero Octa is not auditing the GSA and own sales refunds. Therefore 25% of total sales as well as refunds are currently not being audited. There is

potentially undetected revenue leakage and an opportunity to increase revenues if an audit function was implemented;

1.10.2. Revenue currently generated by the refund function is, administration fees and, where applicable, cancellation fees deducted from refunds due to passengers, amounts to between R18 million – R20 million per month. On average the refund Department receives 6 000 refund applications per month;

1.10.3. Indications are that when transactions are audited, an error rate of 0.77% has been proven to be indicative of expected error rates. An audit trial run of GSA sales conducted by Zero Octa highlighted a potential error rate of 4% when applied to information not previously audited. Management could not quantify potential revenue leakage as a result of refund processing. However based on an annual figure of R300 million per annum, we extrapolated that the potential saving applying the 4% error rate equates to potential revenue of up to **R12 million per annum;** and

1.10.4. In addition using Zero Octa has a direct cost implication as Zero Octa would charge per transaction audited not recovery base as applicable for agent transactions. According to Mr Mellett, a refund audit is to be part of APRA Phase II implementation.

1.11. Ancillary revenue

1.11.1. Based on IATA and Star Alliance statistics, the industry average for ancillary revenue is approximately US$16 per passenger. The industry average includes four different revenue streams namely, a la carte, commission based, frequent flyer programmes and marketing initiatives;

1.11.2. SAA's ancillary revenue for the year to 31 March 2016 was R560 651 999, this translates to US$6.21 per passenger. This calculation however based on all flown passengers and excludes frequent flyer programmes (FFP's). Including FFP's the ancillary revenue per passenger was US$10.47 (versus US$16 per passenger) as at March 2016. SAA currently only reports ancillary revenue using the a la carte and commission based ancillary products. Voyager is not currently reported as an ancillary revenue stream due to the design of the programme and its strategic relevance to SAA;

1.11.3. By implementing initiatives to improve the current recovery rate by just 50% to US$9.31 per passenger, which is still relatively conservative compared to the

industry average of US$16 per passenger, this translates to additional potential revenue of R280, 325,999 **(R280 million)** that could potentially be earned. Currently SAA's target is to grow ancillary revenue to US$10 by the 2019/20 financial year; and

1.11.4. There are opportunies for SAA to grow its ancillary revenues by targeting the additional two industry related ancillary revenue streams which SAA does not currently report. SAA has identified and continues to implement opportunities to improve and market its current ancillary product offering. Various other revenue streams have been identified to generate additional ancillary revenues most of which will be implemented in or at the end of the 2016/17 financial year. Many such revenue optimisation opportunities have since been implemented in the 2017/18 financial years with a resultant growth in ancillary revenues.

1.12. Ticket tax reconciliations

1.12.1. SAA is exposed to more than 500 ticket taxes collected on ticket sales which are paid to tax authorities or other airline when flown. Interline ticket taxes represent an escalating revenue leakage problem. The variety of document types and revenue streams is not transparent, and without industry standardisation, SAA and other airlines struggle to accurately assess tax applicable to interlineable coupons, invariably resulting in incorrect billing of taxes in interline relationships;

1.12.2. There is potential revenue leakage due to incorrect Interline ticket taxes claimed in interline settlement process and incorrect payments to various tax authorities (more than collected taxes/ over-claims by ticket tax code and reconciliations); and

1.12.3. However the potential revenue leakage as a result of ticket tax processing errors cannot be quantified.

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1.13. Tickets issued by Agents and OTA's

1.13.1. Agents issuing tickets that do not respect the fare rules (i.e. reservation, ticketing time limits, breaking sectors etc) are a source of revenue leakage. This is when the real coupon value in Revenue Accounting does not align with Revenue management expectations; and

1.13.2. The potential revenue leakage as a result of ticket reservation related errors cannot be quantified. Management's intention is to expand the ZeroOcta audit to include reservation transgressions on a recovery cost basis.

1.14. Potential Incremental Interline revenue

1.14.1. The Commercial Department indicated that there is a potential to increase interline revenue by between 10-15% by improving revenue protection and better interrogation of SAA's tickets by the Revenue Accounting Department. Estimates of the potential incremental value have not been included in our revenue growth calculations as the 10-15% is wholly based on negotiations with the various Interline partners.

1.15. Amadeus exception reports

1.15.1. SAA does not follow up on valuable exception reports from the Amadeus system, which leaves potential revenue leakages undetected. These various reconciliation reports or transaction review data downloads have been 'put on hold' until such time that SAA has sufficient staffing resources to react to the exception reports and follow up revenue leakage issues highlighted by these reports;

1.15.2. As a result SAA is suffering substantial losses due to insufficient resources ensuring that these exceptions can be adequately followed up, revenues recovered and preventative measures being put in place to mitigate risks identified in the ordinary course of business at SAA; and

1.15.3. This needs to be highlighted as a high-risk area requiring the Board's urgent intervention, as the revenue leakage though it cannot be properly quantified is likely to be material and a significant cause for concern.

1.16. Suggested Revenue Protection measures

1.16.1. Management is of the view that there is a lot of scope for improving revenue protection initiatives, and shoring up revenue leakage by implementing the following:

1.16.1.1. Employing additional resources with required skills needed in Revenue Accounting Protection Department to detect, prevent and recover revenue lost;

1.16.1.2. Appointing a specialist Project Manager to monitor implementation of SAA's Amadeus Passenger Revenue Accounting (APRA) System ticket fare, tax and refund audit functionality and include the improvement of the accounting/monitoring of ticket taxes by Revenue Accounting – Accounting Control staff;

1.16.1.3. Appointing a specialist Project Manager to assist with the APRA Phase 1 close out and the enforcement of enhanced APRA deliverables by Amadeus and also to ensure that SAA makes progress with reports being created by IT, that are necessary to improve financial control and reduce revenue leakage on Interline related adjustments;

1.16.1.4. Redeploying staff from Revenue Accounting processing functions and SAA ticketing offices to sales and Interline outward billing audit functions;

1.16.1.5. Implementing Interline audit functionality to verify all Interline billings (outward and inward) on monthly basis;

1.16.1.6. Appointing a specialist Interline audit service provider on a short-term basis to review current Interline agreements and the quality of SAA's interline processing. If required continue with second pass audit of interline claims accepted by SAA staff to detect errors, if any;

1.16.1.7. Improving the financial reporting and interface between Commercial and Revenue Accounting (APRA) regarding ancillary revenue coding and general ledger mapping; and

1.16.1.8. Implementing procedures for Revenue Accounting to follow up on valuable exception reports from the APRA system.

1.16.2. It is critical that SAA start as soon as possible to get cross-functional participation and that Project timelines are set for action and ultimate quantification of revenue leakage being detected and recovered.

1.17. Flight deck crew

1.17.1. The issue of excessive costs incurred by SAA in respect of rebate travel for the flight deck crew was raised during our discussions with various SAA staff. We obtained pilot costs for the financial year 2015/2016 to assess their salary costs by comparison to industry norms and further in relation to the rest of SAA staff costs;

1.17.2. SAA employ 7,959 staff, of which there are 754 pilots. Pilots therefore make up **9.47% of the total SAA staff** complement. Pilot salary costs for the 2015/2016 financial years was **R1, 824,610,724**. The total salary costs for SAA for the 2015/2016 financial years was **R5, 412,329,830**. This would equate to the pilot salary costs being **34% of the total salary cost**;

1.17.3. In comparing the salary costs to that of the international, regional and domestic salary costs, we compared the SAA pilots' salaries to 59 other Airlines operating internationally, regionally and domestically. We found that the SAA pilots were on average drastically more expensive in the domestic and regional market (narrow body aircraft) and more expensive than the international market (wide body aircraft);

1.17.4. In respect of the African region, pilots have an average salary of **US$141,108** (as at September 2015). SAA average pilot's salary as at September 2015 was **US$182,038**. This provides an indication that the SAA pilots are being paid an average of **22.48% above the African average**. When looking at the average salaries of the 59 airlines globally, the averages for **Europe was US$178,012, Asia Pacific was US$111,568** and **Middle East and Northern Africa was US$163,287**, all these areas are below the average salary of SAA pilots'. The only area that was higher than SAA was the average in the **Americas** at an average value of **US$197,060**;

1.17.5. Using the data obtained through IATA's analysis of the 60 airlines, SAA pilots are **earning 22.48% more** than the average African airline pilot. Should the

salaries be renegotiated, we would expect to see a reduction of salary of at least 15%, creating a saving of **R273, 691,608**;

1.17.6. In addition, we noted that based on the analyses in pilot effectiveness based on productivity, **SAA pilots were effectively 20% less productive** than the industry norm based on the 60 airlines average. Taking the salary costs and productivity into account, this is causing SAA to have increased operating costs (in aggregate) on every route flown. This in turn is reducing the route profitability which is contributing to the losses that SAA are currently experiencing;

1.17.7. We obtained a breakdown of the actual productivity of the SAA pilots. SAA pilots have an average productivity target of **900 flying hours per annum on the wide-body fleet, 852 hours on the narrow-body fleet and 828 hours on the Cargo fleet, as per the Extra Flight Pay (EFP) Agreement**. The average productivity for the **SAA pilot is 778 flying hours per annum**. This amounts to an average productivity statistic of approximately **86%**;

1.17.8. Taking into account the fact that SAA pilots are working in accordance with the Regulating Agreement between SAA and The South African Airways Pilot's Association ("**SAAPA**"), the pilots should have had an equitable workload spread, with productivity being the driving factor. According to various parties within SAA, the planning of pilots has however been determined by the bidding process of the pilots in terms of their seniority and did not take into account productivity targets. This enabled certain senior pilots to cherry pick the routes that they wanted to fly, which in turn negatively affected their productivity, and the more junior pilots worked additional time and exceeded their productivity targets which leads to them claiming overtime (Extra Flight Pay/EFP). The pilots used their own manual system (which was designed by a SAA pilot) and chose not to use the SAA approved (computerised) Pegasus System;

1.17.9. Based on the ineffective productivity utilisation statistics of and the payment of EFP to the SAA pilots, this has a negative financial result;

1.17.10. By increasing the productivity of the pilots by 10% and reducing the overtime cost, this should result in a potential benefit to SAA of approximately R193, 785,813 (**R193.8 million**);

1.17.11. In addition to having low productivity, **paying overtime equivalent to five additional pilots**, SAA pilots also enjoy the option to contract their services to other airlines, while continuing to enjoy their benefits from SAA, and depending

on their contractual period with the contracting airline, they are still promoted each year within SAA.

1.17.12. In this regard, SAA have approved that a competitor airline – **Fast Jet** utilise **13 SAA pilots to pilot their aircraft**, and a further **two pilots** that operate in the Far East or America;

1.17.13. "*Fastjet are on their way to becoming Africa's first pan-continental airline. Since launching in 2012, they have flown nearly 2,000,000 passengers with customers benefitting from fares as low as US$10 one way. Fastjet has introduced international standards of safety, quality, security and reliability with over 90% of all flights arriving on time. They are proud to support a loyal customer base - 80% of which are repeat Fastjet flyers*"

1.17.14. Fast Jet has five aircraft, and based on the low cost airline model of Mango, an average of 10 pilots are required per aircraft. Based on the pilots provided by SAA to Fastjet, SAA are assisting Fastjet, their competitor, to fly **40% of its metal in direct competition to SAA**. Fortunately, SAA do not pay their pilots during this contract period and these pilots utilise their accumulated leave time to fly the competitor's aircraft, resulting in a reduction to SAA's pilot costs. However, the consequence of this arrangement is that SAA are assisting a competitor airline to obtain a foothold in the same regions within which SAA fly their own aircraft;

1.17.15. The Regulating Agreement referred to above also provides SAA pilots with **extensive travel benefits**. Applying the pilots travel benefits for the 2015 calendar year and using the 2016 average fares on all flights utilised by pilots, this additional benefit totals approximately **R185 million**, and based on their contractual benefits, SAA pilots have preference in seating for their families; in effect fare paying passengers cannot purchase seats that have been requested and booked by SAA pilots up to 3 months in advance. Not only does SAA lose significant revenue during peak holiday season, they also lose customers in that this causes passengers to find alternative competitor airlines to travel;

1.17.16. We have obtained information that nine (9) SAA pilots are resident in Australia and the United States of America, of those nine (9), two (2) are operating businesses and aligning their flight schedules around their personal situations. The manner that these nine (9) pilots are **scheduling** their flights via the bidding system has a **negative effect on their productivity** and also **effects the morale** of more junior pilots;

1.17.17. Further to this, pilot spouses and/or children also fly on a confirmed basis to the same destination on the aircraft the pilot is operating to the overseas destinations.

1.17.18. The pilot then has, on average, a 2-day stay at the overseas destination where they are still on duty. These duty days are then used as additional off days for family excursions;

1.17.19. An additional concern regarding these 'slipping' days is that SAA originally only had a one-night stop-over at Washington, New York and Perth, and based on a fatigue complaint by Captain Stegmann, an internal study was performed by Captain Wynand Serfontein. This study found that a two-night stopover would better suit pilots to avoid being fatigued. The standard based on the CAA flight and duty limitations is a one-night stopover. This assessment should have been conducted by an independent external aviation expert, as the study prepared by Captain Serfontein is a study effectively requested by SAA pilots and prepared by SAA pilots, to the advantage of the SAA pilots but to SAA's detriment;

1.17.20. Depending on whether the study is correct or not, this would have a financial impact on SAA, in that SAA is be paying for an extra night per flight, per destination, for all pilots. The costs pertaining to hotel and subsistence expenses are conservatively estimated at approximately **R10 million per annum**. There are a number of other areas where the SAA pilots have benefits in terms of the above agreement that appear to be excessive and unreasonable, such as inter alia, the choice of hotels as well sick leave and annual leave benefits. Our employment law team has been providing advice to SAA to redress pilot costs. We have ensured that our investigation findings are integrated with SAA's strategies to tackle this expensive problem;

1.17.21. These potential cost savings and envisaged increased revenue can only be achieved if the Regulating Agreement ("RA") between the SAA pilots and SAA can be set aside, or if the pilots can be be persuaded to agree to a reduction in benefits for the greater good of the airline, which is not likely. ;

1.17.22. SAA has been in dispute regarding the RA and has previously unsuccessfully attempted to cancel the RA and other related agreements. In 2002 a Private Arbitration was held to determine if agreements terminable on reasonable notice. The Arbitrators ruled and held that the RA was not terminable on reasonable notice, primarily because it is not for an indefinite period:

1.17.22.1. 23. DURATION, AMENDMENT AND PUBLICATION OF THIS AGREEMENT

1.17.22.1.1. 23.1 *This Agreement shall come into operation on the date of signature hereof and shall remain in full force and effect until such time as it is explicitly rescinded by a new agreement signed by both parties lated to*

1.17.23. The Arbitrators found that the RA is not silent as to its duration, and reasoned as follows:

1.17.23.1. "*Clause 23 is not a clause about terminating the agreement. It is a clause, which sets out, in sub-clause 23.1, to specify the period for which the agreement will endure. As such the principle stated by Smalberger AJA has no application and the practical considerations, which were stressed on behalf of the Claimants, must give way to the express provisions of the agreement regarding its duration. It is neither here nor there that the parties may have been unwise or even foolish to agree to those terms, a matter on which we make no comment. The fact of the matter is that on the plain language of the Regulating Agreement it is to endure until explicitly rescinded by a new agreement. That in our judgment excludes a right to terminate by the giving of notice.*";

1.17.24. As of 23 October 2013, Mr Brian Patterson of ENSAfrica Inc., t advised SAA requires an approach that would effectively replace the regime regulating the relationship with the pilots, with a more appropriate and andmore balanced agreement, which does not disproportionately favour the pilots and entrench benefits that are unaffordable to SAA.

1.18. Flight deck and cabin crew hotel accommodation

1.18.1. We identified the following probable fruitless and wasteful expenditure in respect of hotel accommodation costs for flight deck and cabin crew over a two-year contract period:

1.18.2. New York flight deck crew

1.18.2.1. Approximately R14 million additional costs due to not selecting the Grand Hyatt Flushing Hotel; and

1.18.2.2. Approximately R0.73 million additional costs due to the late re-negotiation of the flight deck crew contract with Westin Grand Hotel.

1.18.3. New York cabin crew

1.18.3.1. Approximately R18.5 million additional costs due to not selecting the Grand Hyatt Flushing Hotel.

1.18.4. Sao Paulo flight deck and cabin crew

1.18.4.1. Approximately R1.9 million additional costs due to incorrect computation in BAC submission resulting in a more expensive than necessary hotel option being awarded a contract.

1.18.5. The above costs total **R35.1 million** over a two-year period. This is excluding any synergies or further cost savings that could be achieved as indicated above. It is further noted that we have only reviewed five contracts, accounting for 51% of the total spend on hotel accommodation in FY 2015/16 and therefore we presume that these issues permeate throughout this procurement cycle. It is consequently anticipated that further cost savings could be achieved by SAA, if this entire procurement process is reviewed, in detail, by SAA management.

1.19. **Fort Lauderdale – North America Regional office**

1.19.1. Since 30 January 2000, SAA has not operated a flight into Miami, Florida but has continued to operate a regional office in Fort Lauderdale, Florida (an approximate distance of 39km apart. A total of 67 American nationals, 51 of whom are based in Fort Lauderdale are employed by SAA in the USA. To date, the average monthly salary expense amounts to R4.965 million (an average of R65 328 per employee per month);

1.19.2. The Fort Lauderdale regional office was set up in 2004 and is responsible for all SAA's commercial operations including generating revenue for SAA through a customer call center and web sales and to fulfill part of the FAA's regulated activities in terms of uplifting passengers to and from the USA;

1.19.3. A point of sale report indicates that the Fort Lauderdale office is generating sufficient revenues to meet its operational budget. Management stated that the North America Regional Office is responsible for managing the 2nd / 3rd largest revenue-producing region for SAA and contributes to approximately 15% of

SAA overall revenue. Furthermore the regional office operates within compliance of corporate and procurement policies as set out by Head Office;

1.19.4. The Customer Call Centre currently has 42 full time employees (which includes CSA, group sales, team leaders, managers). As at September 2016 the total monthly salary cost was USD169 496 (R2 332 265), which equates to an average of USD4 035 (R55 530) per employee. Of the 42 employees, 29 are Customer Service Agents (call centre agents). The average monthly salary for a Customer Service Agent is USD2 896 (R39 848). It would appear that the salary costs are not justifiable and commensurate with the level of remuneration awarded to call centre agents at SAA Head Office. A call centre agent operating in South Africa earns significantly less than that, and as such costs could be reduced;

1.19.5. A preliminary business case has been prepared to close and relocate the Fort Lauderdale regional office to New York. We requested a copy of the business case prepared from Mr Munetsi. At the date of our report this was yet to be received;

1.19.6. Management subsequently advised us that several business cases have been prepared and submitted to the Board over the years to substantiate the significant cost saving of the North America Regional Office location in Fort Lauderdale, as opposed to relocation in New York. A recent evaluation completed in July 2016 projected that an office relocation to New York would increase costs by USD $3.5 million to USD $5.4 million (R45, 562,300 – R70, 296,120) over the term of a five (5) year lease with higher employment costs; and

1.19.7. We have been unable to obtain relevant information from SAA management to determine exactly what the Fort Lauderdale office functions are, how they enter into contracts and how costs are derived.

1.20. Simulator, lease and maintenance contracts and payments

1.20.1. Since June 2016, we have repeatedly requested information relating to the simulator contracts. Regarding the simulator contract, we are concerned that according to payments reflected to CAE Inc., the service provider for the period 2011 to 2015, an amount of approximately R1.1 million is reflected as paid. We have however obtained two invoices for the period 2013 totalling in excess of R8.2 million, and have attempted to determine whether these payments have been made, and if confirmed, to which entity such payments were made. We have requested this information from Mr Dev Erriah, (Chief Financial Officer of South African Airways Technical). Mr Erriah responded on 14 October 2016 stating "*Can I request a bit more time as I am engaging with the CEO before we respond?*" We sent a further mail to Mr Erriah on 14 November 2016, requesting an update. To date, no response has been received. A follow up email to Mr Erriah on 25 January 2017;

1.20.2. SAA has entered into numerous hardware maintenance contracts and software warranties with various suppliers (most commonly CAE Inc. and its subsidiary, FDM Flightscape Inc.) and is incurring considerable annual expenses in order to maintain the simulators, purchase consignment spares for the hardware needed to operate simulators and to purchase additional annual or *ad hoc* upgrades to the software used in the simulators that are operated by SAA. It appears that SAA management cannot locate or fully comprehend many of the relevant contracts, to establish which services and supply of goods relate to the contractual terms of each of the individual agreements; and

1.20.3. It is asserted that SAA is currently incurring additional regular expenses relating to hardware maintenance and software warranties, which could easily already be covered by existing contracts. However, if management are not aware of SAA's rights and entitlement under the existing contracts, they will continue to approve payments for services that would ordinarily be covered in the prevailing terms and conditions elsewhere within the operations. In addition to this, CAE Inc. have negotiated to use 50% of the man hours available on the fully serviced, maintained and SAA staffed simulators, at no further expense to SAA.

1.20.4. Consequently, in addition to paying possible unwarranted maintenance expenses, SAA is effectively funding the simulators in order for CAE Inc. to generate its own revenues in respect of the simulators leased to SAA.

1.21. Star Alliance

1.21.1. It has been claimed that SAA is not extracting the full potential value of its Star Alliance membership and is losing a significant amount of revenue each year. We endeavoured to determine from the Commercial Department which benefits are not being optimized or received not just from the Star Alliance membership but including the code share agreements;

1.21.2. It has also been alleged that SAA has had non-compliance issues in recent Star Alliance audits and is at risk of materially breaching, Article 10.3 (Compliance with membership obligations) of the Star Alliance agreement;

1.21.3. In addition, as mentioned in the LTTS the North American Alliance with United Airlines needs to be reviewed as SAA's US performance has deteriorated over the past few years; and

1.21.4. We requested meetings with relevant senior management within SAA to discuss and obtain relevant information regarding Star Alliance, however approval has not been granted by the CEO and from the Executive Assistant of the CEO's Office.

1.22. Voyager – loyalty award programme

1.22.1. It critical to note that there does not appear to be any formal documentation, agreements or contracts which formalise and set out the relationship between SAA Voyager and SAA operations. The terms and conditions of the business arrangement have not been formally defined and the manner in which miles are valued or redeemed has not been agreed between the parties. The lack of a formal agreement needs to be urgently resolved within the Internal SAA processes;

1.22.2. Management of SAA Voyager is seeking to become an enhanced division within SAA with more autonomy to be able to make astute business decisions within a more favourable timeframe. However SAA Voyager management feel hindered by the bureaucracy and decision making timelines that lead to sub-optimal decisions being made in relation to an un-optimised operating business model thus impacting the SAA Voyager profitability and leverage of the programme; and

1.22.3. We ubnderstand that this enhanced division status has been on the exco agenda to be presented to the Board since December 2015.

1.23. Procurement and Governance

1.23.1. In terms of our mandate, we requested 116 procurement files for review; however only 60 files were provided to us. (This is a concern as potentially problematic appointments may potentially have been deliberately witheheld from scrutiny by our team. Of the 60 files received, 52% of the contracts contained therein, which equates to 31 contracts, were found to be non-compliant with SCM policy and/or the PFMA.General findings identified in the 52% non-compliant contracts comprised the following issues:

1.23.1.1. Contract extensions to regulate inefficiencies in contract management;

1.23.1.2. Abnormal turn-around times for tender processes;

1.23.1.3. Poor monitoring of contracts to ensure cost compression outcomes are achieved;

1.23.1.4. Delayed procurement processes to keep service providers in the system longer;

1.23.1.5. Confined processes which are not competitive nor fair;

1.23.1.6. Lack of signed agreements or abnormal delays in signing contracts;

1.23.1.7. Ineffective contract management system;

1.23.1.8. Continued payments for services rendered despite the absence of signed contracts;

1.23.1.9. Regarding the 31 contracts found to be non-compliant, three contracts were found to have overspent their approved budgets despite an agreed upon cost compression strategy. The three contracts were with Havas Worldwide, CUB3D and SFU Engineering;

1.23.1.10. Havas Worldwide which had an approved budget of R77,500,000.00 were paid R131,267,139.64, which thereby resulting in an overpayment of **R53,767,139.64**;

1.23.1.11. CUB3D which had an approved budget of R22,800,000.00 were paid R50,425,245.37 thus thereby resulting in an overpayment of **R27,625,245.37**;

1.23.1.12. SFU Engineering which had an approved budget of R27,210,114.65 were paid R32,204,156.68 thereby resulting in an overpayment of **R4,994,042.03**;

1.23.1.13. The net result of these three contracts alone have resulted in overpayments totalling **R86,386,427.04**;

1.23.1.14. As a result of non-compliance with SCM policy and/or PFMA regulations relating to the 31 contracts identified, a total amount of **R685,036,241.06** should be classified as 'irregular' expenditure;

1.23.2. As part of our review into procurement processes and contracts entered into by SAA, we have identified the procurement process followed in the appointment of an Aircraft Components Supplier as an area of concern. There have been a number of "unsuccessful" procurement processes commencing from 2013 through to 2015 under the following tender references - SP401/12; SP437/14; SP451/15; SP453/15, and subsequently SP462/15. The latter is under review based on the legal challenge brought by Air France and KLM;

1.23.3. Ernst and Young conducted a preliminary investigation to determine whether there was any merit in the allegation that the Memorandum of Understanding ("MOU") between SAA and AAR, and the possible award of a contract to AAR, was based on a potentially corrupt relationship between AAR and representatives of SAA. They concluded that the allegations appear to have merit and that the matter warrants further investigation;

1.23.4. The EY report stated "*The manner in which the MOU was concluded allegedly contributed to the resignation of a SAAT Board member, Mr Barry Parsons, who in his letter of resignation wrote the following when referring to SAAR and AAR: ….'**There is clearly a hidden agenda somewhere in this relationship and it requires urgent independent investigation**.' The reasons for resignation put forward by Mr Parsons also raised concern. In this regard he amongst others questioned the probity of the origins of the relationship with AAR.*";

1.23.5. The EY report considered that there were sufficient concerns regarding the prior relationship between AAR and SAAT to warrant a full investigation. The EY

recommendation and reasons therefore, was ignored and a further subsequent tender was issued and awarded to AAR notwithstanding this caveat;

1.23.6. The current aircraft components support tender 462/15(under review) is identical to earlier tenders (SP401/12; SP437/14; 451/15; 453/15) in which AAR was unsuccessful and to an aborted JV MOU concluded between AAR and SAAT for services identical to the series of the same tenders. In effect the current award was the 6th attempt that AAR made for the provision of identical services. The facts surrounding the repeatedly cancelled and re-issued tenders would be pertinent to matter;

1.23.7. The MOU arose from an unsolicited proposal by AAR to SAAT in the middle of a tender process in which AAR had been eliminated. The effect of the MOU was to terminate the then current tender process. The MOU provided AAR with the opportunity to provide the identical services to those that it had failed to succeed with through the tender process;

1.23.8. In an earlier tender response AAR represented that their local partner (a requirement of the tender) was a company, which subsequently denied being involved with AAR in the tender. A witness made a verbal statement to EY which purports to cast doubt on the truthfulness of the AAR tender representations. Such a false representation would ordinarily disqualify the party from awards for a similar tender;

1.23.9. The current tender was awarded to AAR together with a newly introduced partner, which had not previously had any experience in aviation or any relationship with AAR. This entity's bona fides has yet to be established;

1.23.10. It is not known whether this (EY) information has been fully disclosed and considered by the SAAT legal team opposing the Review application. Failure to disclose material facts may have further consequences;

1.23.11. A former Director of SAAT resigned from SAAT Board and from SAA expressly for reasons of his disquiet over the AAR transactions with SAAT. He stated in his letter of resignation "*There is clearly a hidden agenda somewhere in this relationship and it requires urgent independent investigation*";

1.23.12. The Acting CEO has argued that there should be no investigation as the matter is sub. This is not correct in law and this is not a valid reason to postpone the investigation;

1.23.13. The scope of current review application may not encompass the broader dealings between AAR and SAAT;

1.23.14. Although no aspersions are made or implied there is a perception of a conflict of interest between the SAAT Executive at the time of the earlier negotiations with AAR and the current decision not to investigate the matter fully;

1.23.15. This is a significant service/supply contract and the quality services and the costs provided will have a material impact on the viability of SAA;

1.23.16. In addition, we have identified and reported on a number of situations which potentially trigger a reporting obligation in respect of Section 34 of the Prevention and Combating of Corrupt Activities Act. Section 34 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004) ("the PCCA") requires a person who holds a position of authority and who knows or ought reasonably to have known or suspected that another person has committed an offence under Part 1, 2, 3 or 4 or section 20 or 21 (insofar as it relates to the offences mentioned) of Chapter 2 of the PCCA involving amounts of R100,000,00 or more, to report such knowledge or suspicion to the police. The same duty to report is placed on persons in authority with regard to the offences of fraud, extortion, forgery or uttering a forged document, involving amounts of R100,000,00 or more;

1.23.17. A person in authority is defined in section 34(4)(e) of the PCCA, inter alia, as a director of a company. Once the Board is advised of the suspected fraud or corruption exceeding R100,000.00, then the reporting duty is triggered;

1.23.18. We have identified potential fraud and/or corruption related to the AAR appointment and the above procurement investigations appear to involve further fraudulent and/or corrupt activities. EY had previously flagged AAR as a potentially irregular transaction and recommended further investigation;

1.23.19. We require the Board's intervention to overcome the impasse on securing information to complete our commercial investigation; and

1.23.20. In addition, we require the Board's instructions to proceed with registering appropriate criminal matters to ensure that the matters are reported to the Directorate of Priority Crimes Investigation, so that the Board can be considered as having satisfied its reporting duties in terms of the PCCA.

1.24. Constraints experienced

1.24.1. During our investigation we requested but were not provided with information relating to the following:

- CAE Flightscape expenditure (Simulator payments);
- Progress on SAA Legal Departments review of all CAE contracts;
- Star Alliance (discussion and review of contract with Manager);
- Parliamentary Monitoring Group reports and presentations; and
- Mudziwa Travel contract in respect of ground transportation costs;

1.24.2. In addition, during the investigation staff were, at times, unavailable and / or requested that ENS schedule meetings on approval of the CEO or their respective Head of Department.

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2. BACKGROUND

2.1. ENS, in collaboration with our 70/30 joint venture partner SKX, were appointed to conduct an independent forensic investigation into certain financial matters within South African Airways SOC Limited ("**SAA**");

2.2. ENS has performed a number of investigations for SAA in recent years and has extensive first-hand knowledge of irregularities perpetrated by employees, including senior executives of the airline. Many of these irregularities have highlighted significant negligence and mismanagement, as well as acts of dishonesty, which have **prejudiced and potentially prejudiced** the airline. During our prior investigations into irregularities involving senior management, we helped the SAA Board to stop several long term contracts that would have resulted in fruitless and wasteful expenditure to the value of over **R1 billion;** The background to our appointment is that SAA's financial performance has been unacceptable over many years. Losses have magnified and the company is increasingly reliant on government guarantees to raise funding. The cost of funding constantly increases, further exacerbating the financial difficulties. We understand that it has become almost impossible to fund capital assets on the balance sheet requiring higher leasing/funding costs;

2.3. Additionally, actual losses tend to be worse than forecast and adjustments are not made in time to redress adverse trends;

2.4. There does not appear to be any effective cost-volume-profit accounting that determines where significant losses are being incurred;

2.5. The Board is not forewarned sufficiently ahead of major concerns that arise;

2.6. There is a perception that too often the company moves from one short term response to another;

2.7. The Board is not convinced that the financial management and reporting functions effectively identify the key weaknesses have appropriate controls and reporting in place or monitor performances;

2.8. Based on the above, we understand that the board requires an investigation into the root causes of these failings and is specifically seeking answers to the following specific questions:

2.8.1. Where do the losses ultimately lie?

2.8.2. Is the finance structure effective?

2.8.3. Are there clear responsibilities and accountabilities for critical functions?

2.8.4. Are the financial and administrative controls adequate and effective?

2.8.5. Is there effective monitoring and reporting?

2.8.6. Does SAA have the right responses to poor performance?

2.8.7. Does SAA evaluate the value-add and pricing of contracts and performance of delivery effectively?

2.8.8. Does SAA know whether outsourced services provided added value?

2.8.9. Does finance have sufficient influence over planned business plans, decisions, transactions and activities?

2.8.10. Are funding requirements identified sufficiently ahead of time and are they concluded on the most favourable terms?

2.8.11. Does SAA identify and report on unusual transactions or contracts and non-performance of major projects?

2.8.12. Does SAA analyse costs and profitability adequately? and

2.8.13. Does SAA have effective strategies to manage controllable and uncontrollable factors affecting profitability?

3. THE MANDATE OF THE FORENSIC INVESTIGATION

3.1. As per your instructions, the commercial investigation, which the Board has requested us to perform in collaboration with our financial consulting partner SKX, will address the context and questions raised above, but will also have specific regard to:

3.1.1. Profitability planning and analysis;

3.1.2. Cash planning and management;

3.1.3. Financial controls;

3.1.4. Monitoring of performance plans and budgets;

3.1.5. Responses to poor performance (consequence management);

3.1.6. Monitoring of contracts (delivery and costs);

3.1.7. Cost management of the major operational activities;

3.1.8. Funding costs and arrangements;

3.1.9. Organisational structure and capacity and division of duties;

3.1.10. The procurement process, both from a compliance perspective and the commerciality of contracts entered into;

3.1.11. Effectiveness of PFMA compliance and delegation of control framework;

3.1.12. Revenue streams and appropriate accounting controls; and

3.1.13. General procedures relating to the revenue cycle as detailed in our mandate letter.

4. PROCEDURES PERFORMED

4.1. We have performed the following procedures to date:

4.1.1. We obtained and reviewed a significant amount of financial records pertaining to SAA routes profitability, revenue, cost compression exercise, pilot costs, expenditure, National Treasury reports and reporting;

4.1.2. We obtained and reviewed the Code of Ethics and Conduct for South African Airways;

4.1.3. We obtained and reviewed the Supply Chain Management Policy;

4.1.4. We obtained and reviewed the Bid Adjudication Council Terms of Reference and Functioning, for various procurement matters;

4.1.5. We obtained and reviewed the Delegation of Authority Policy, including Delegation of Authority to the Group Chief Executive Officer of SAA and the SAA Subsidiary Company Boards from the SAA Boards of Directors;

4.1.6. We obtained and reviewed the Human Resources – Recruitment and Selection Policy;

4.1.7. We obtained and reviewed the procurement files of documentation that was used to approve the award of services to various suppliers of goods and services;

4.1.8. We obtained and reviewed the documentation utilised in the award and adjudication of various Request for Proposals as per our Terms of Reference;

4.1.9. We obtained and reviewed the Human Resources Department working file relating to the position of Training Manager: Revenue Management and Pricing Operations in Malaysia and South Africa;

4.1.10. We obtained and reviewed the Travel Benefits Agreement;

4.1.11. We obtained and reviewed the Duty Travel Management Policy;

4.1.12. We obtained and reviewed the SAA Baggage Regulations Bulletin 02/2016;

4.1.13. We obtained and reviewed the Fuel Levy Policy;

4.1.14. We obtained and reviewed aspects of the Regulating Agreement pertaining to flight deck crew;

4.1.15. We obtained and reviewed the Cabin Crew Hotel Selection Policy;

4.1.16. We obtained and reviewed numerous contracts and supporting documents relating to hotel accommodation contracts awarded for the following destinations; New York, Hong Kong, Accra, Dakar and Sao Paulo;

4.1.17. We obtained and reviewed the external forensic audit reports;

4.1.18. We obtained and reviewed Internal Audit reports;

4.1.19. We obtained and reviewed the Long Term Turnaround Strategy ("LTTS") dated July 2013;

4.1.20. We obtained and reviewed the InterVistas - Comprehensive Network and Fleet Plan final report dated March 2015;

4.1.21. We obtained and reviewed relevant (certain) Board of Directors Minutes of Meeting;

4.1.22. We obtained and reviewed relevant Executive Committee Minutes of meetings;

4.1.23. We obtained and reviewed relevant BAC Minutes of Meetings;

4.1.24. We selected 19 service provider contracts where the cost range was between R5million to R15million for review to determine compliance with tender processes and contract management; and

4.1.25. We selected 99 service provider contracts where the costs were in excess of R15 million, for the period starting from 1 January 2014 to-date for review to determine compliance with tender processes and contract management.

4.2. Interviews performed

We interviewed or had discussions with the following parties:

4.2.1. Ms Phumeza Nhantsi ("**Ms Nhantsi**"), Interim Chief Financial Officer, SAA;

4.2.2. Mr George Mellett ("**Mr Mellett**"), Head of Department ("**HOD**") Revenue Accounting, SAA;

4.2.3. Mr Nico Bezuidenhout **("Mr Bezuidenhout")**, former Mango CEO;

4.2.4. Ms Lindsay Olitzki ("**Ms Olitzki**"), Head of Department ("**HOD**"), Financial Accounting, SAA;

4.2.5. Mr Martin van Niekerk ("**Mr van Niekerk**"), Senior Manager Pricing, Proration and Interline Agreements, SAA;

4.2.6. Mr Aaron Munetsi ("**Mr Munetsi**"), Acting Chief Commercial Officer, SAA;

4.2.7. Mr Vivek Maharaj ("**Mr Maharaj**"), Financial Controller Commercial, SAA;

4.2.8. Ms Gwen Matshego ("**Ms Matshego**"), Executive Manager, Alliances – Code Share, SAA;

4.2.9. Mr Michael Brewis ("**Mr Brewis**"), Revenue Integrity, SAA;

4.2.10. Ms Izanne Kotze ("**Ms Kotze**"), Operations and Ancillary Services, SAA;

4.2.11. Ms Suretha Cruse ("**Ms Cruse**"), Head of Voyager, SAA;

4.2.12. Mr Robert Birch ("**Mr Birch**"), Head of Finance – Voyager, SAA;

4.2.13. Mr Clive Manbee ("**Mr Manbee**"), SAA Consultant responsible for cost compression, SAA;

4.2.14. Mr Siyakhula Vilakazi ("**Mr Vilakazi**"), Chief Audit Officer: Internal Audit, SAA

4.2.15. Mr Tebogo Nkosi ("**Mr Nkosi**") (Manager IT: Internal Audit), SAA;

4.2.16. Ms Elsje du Preez, **("Ms Du Preez")**, HOD Fleet Management, SAA;

4.2.17. Mr Adam Seedat **("Mr Seedat")**, Financial Controller: Operations, SAA;

4.2.18. Ms Fernanda Marques ("**Ms Marques**"), Revenue Management, SAA;

4.2.19. Ms Caroline Potsane ("**Ms Potsane**"), Manager Flight Document Processing, SAA;

4.2.20. Mr Bongani Tshabala; ("**Mr Tshabalala**") Manager Simulators, SAA;

4.2.21. Ms Raylene Saggeus ("**Ms Saggeus**") Manager Revenue Protection, SAA;

4.2.22. Ms Ntombi Masikane ("**Ms Masikane**") Sourcing Specialist, Global Supply Services, SAA;

4.2.23. Mr Ernest Mudau ("**Mr Mudau**"), Regional Finance Manager- Domestic South Africa, SAA;

4.2.24. Ms Landi Niemandt ("**Ms Niemandt**"), Group Security Investigations, SAA;

4.2.25. Ms Kelly Pietersen ("**Ms Pietersen**"), Team Leader, Revenue Accounting, SAA;

4.2.26. Ms Santha Archary ("**Ms Archary**"), Manager Accounting and Recon Control, Revenue Accounting, SAA;

4.2.27. Mr Frank Kgaswane ("**Mr Kgaswane**") – Regional Finance Manager Africa & Middle East, SAA;

4.2.28. Ms Daicy Demas **("Ms Demas")** – Airport Station Manager SAA;

4.2.29. Mr Josua Du Plesses ("**Mr Du Plessis**") – Acting Chief Strategy Officer, SAA;

4.2.30. Ms Reneitte Slabbert ("**Ms Slabbert**") – Admin Manager SAP, Global Supply Management, SAA;

4.2.31. Mr Dekker van Zyl **("Mr van Zyl")** – Manager Group Insurance, SAA;

4.2.32. Ms Felicity Sekoto **("Ms Sekoto")** – Manager Interline and Referance Tables, SAA;

4.2.33. Ms Pienie Jacobs **("Ms Jacobs")** – Specialist International HR, SAA;

4.2.34. Mr Lester Peters ("**Mr Peters**") - Acting Chief Procurement Officer, SAA;

4.2.35. Ms Reinette Slabbert ("**Ms Slabbert**") - Administration Manager: SCM, SAA;

4.2.36. Mr Thami Sogwazile ("**Mr Sogwazile**") - Commodity Manager, SAA;

4.2.37. Ms Naomi Kwinda ("**Ms Kwinda**") - Sourcing Specialist, SAA;

4.2.38. Ms Nthabiseng Ntshalintshali ("**Ms Ntshalintshali**") - Chief Compliance and Risk Officer, SAA;

4.2.39. Ms Hester Kleinhans ("**Ms Kleinhans**") - Manager Accounts Payable/Travel Management/Group Accounting, SAA;

4.2.40. Ms Lee Ann Swart ("**Ms Swart**") - Commodity Sourcing Specialist, SAA;

4.2.41. Mr Richard Hunt ("**Mr Hunt**") - Manager: Ground Handling, SAA; and

4.2.42. Mr Neil Bam ("**Mr Bam**") - HOD: Facilities, SAA.

5. KEY FINDINGS TO DATE

PART 1 FINANCIAL ANALYSIS

Based on interviews carried out and corroborating evidence obtained during follow up interactions with key employees, the following findings have been reached, as set out below:

5.1. Profitability planning and analysis

5.1.1. Group results as at March 2016

Table 3 below sets out a brief summary of the year-to-date ("**YTD**") net loss for the year ended 31 March 2016.

Group results at March 2016	**YTD**	**YTD**	**YTD**
(R'million)	**Mar-16**	**Budget**	**Prior year**
Total income	30 385	32 205	30 105
Operating costs	(30 034)	(32 172)	(32 546)

EBITDA	**(351)**	**33**	**(2 441)**
Depreciation impairment & Other	(889)	(565)	(2 722)
EBIT	**(538)**	**(532)**	**(5 163)**
Interest income	26	-	(26)
Operating loss	**(512)**	**(533)**	**(5 137)**
Finance costs	(861)	(734)	(490)
Loss before taxation	**(1 373)**	**(1 267)**	**(5 627)**
Taxation	100	(10)	(12)
Loss for the year	**(1 473)**	**(1 277)**	**(5 639)**

Above : Table 3: Group results as at March 2016

5.1.2. The Group recorded YTD losses of R1.473 billion versus a budgeted loss of R1.277 billion and prior year loss of R5.639 billion.

5.2. Income

5.2.1. Total income was down 6% on budget but 1% ahead of prior year. Excluding the impact of the change in foreign currency compared to prior year, total income is down 6% on prior year. An overview of the statistics is as follows:

- Average fares - 9% below budget but 2% ahead of prior year;
- RPK's - 8% ahead of budget but 3% below prior year;
- Revenue passengers - 5% ahead of budget but on par with prior year;
- ASK's - 4% below budget and 6% below prior year; and
- Load factor - 8% ahead of budget and 2% ahead of prior year.

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5.2.2. Table 4 below sets out the breakdown of passenger revenue for the YTD March 2016 results.

Passenger turnover	**YTD**	**YTD**	**YTD**
(R'million)	**Mar-16**	**Budget**	**Prior year**
International	11 636	12 286	11 685
Domestic	4 642	3 875	4 632
Regional	6 467	7 863	6 086
SAA Flown pax Revenue	**22 745**	**24 024**	**22 403**
Mango domestic	2 007	2 350	1 843
Codeshare	516	479	761
Release of expired tickets	380	423	372
Fuel Levy - Other	516	479	761
Revenue deferral	(275)	(216)	96
Voyager consolidation	(337)	(215)	(388)
Sub-total	**2 807**	**3 300**	**3 445**
Total passenger turnover	**25 552**	**27 324**	**25 848**
US$ / ZAR	13.48	11.75	10.96
Statistics:			
Average fare	**3 334**	**3 675**	**3 256**
ASK (available seat kilometre)	**28 409**	**29 444**	**30 207**
RPK	**21 709**	**19 617**	**21 814**
Revenue pax	**6 698**	**6 387**	**6 700**
Load factor	**74.20%**	**66.66%**	**72.20%**

Above: Table 4: Breakdown of passenger revenue – YTD March 2016

(Source: SAA Group results – Detail)

5.2.2.1. The YTD total passenger turnover was 6% behind budget and 1% below prior year;

5.2.2.2. International and regional routes underperformed against budget, while domestic routes were 20% ahead of budget. YTD Revenue passengers and average fares remained below budget on both the international and regional sectors;

5.2.2.3. International and domestic routes were on par with prior year, whilst regional routes were 6% ahead of prior year figures. Revenue passengers and average fares for regional routes were ahead of prior year whereas they were behind the international and domestic sectors;

5.2.2.4. YTD, Mango is 15% below budget but 9% ahead of prior year. Mango average fares were below budget, largely as a result of increased competition in the market, but load factors were ahead of budget; and

5.2.2.5. The YTD average ZAR: US$ exchange rate of R13.48 compared to a budget of R11.75 and prior year of R10.96.

5.3. Financial controls

5.3.1. Business cases presented to senior management

5.3.1.1. Departments within SAA are presenting business cases which are thoroughly researched and assumptions made to determine whether certain initiatives, planned network routes or fleet management changes should be pursued or not. However there is considerable red tape and process flaws to making quick decisions in this regard, resulting in sub-optimal decisions being made and, in certain cases, the vetoing by the ultimate decision maker;

5.3.1.2. Board decisions also get appealed and no further action is taken or untimely action is taken resulting in significant losses for SAA;

5.3.1.3. When business cases are accepted, there is no monitoring of progress or validation of the key assumptions used in the business models, resulting in remedial action needing to be taken to rectify inefficiencies in strategy – often too late/not taken at all and at a

cost to SAA. The converse is also true in that business cases that are inappropriate or do not appear to be to the benefit of the SAA group in the long run, are approved and contracts are entered into that result in significant financial losses to SAA and have long term consequences that are detrimental to SAA operations;

5.3.1.4. It has been alleged that the Finance Department is not necessarily adequately involved in the preparation of business cases. The concept of return on investment is not always appropriately addressed. Often the team putting the business cases together is comprised of employees approaching the issue at hand from a technical perspective (in terms of the requirements of SAA) but not from a financial management perspective (in terms of the return on investment required by SAA);

5.3.1.5. The requisite financial backing and supporting computations to validate the proposed financial outcomes resulting from operational decisions set out in various business cases is not always appropriately addressed.

Cross-functional teams must be used to ensure that the impact across all divisions affected by various business case scenarios is appropriately considered and taken into account.

5.3.2. Internal audit – visits to outstations

5.3.2.1. According to Mr Vilakazi there is currently a freeze on overseas trips. As a result, the Internal Audit Department has not been mandated to undertake any follow up audit visits to the outstations. The 2017 audit plan includes visits to the Americas region, London and Frankfurt;

5.3.2.2. During 2015 a fraud occurred at the SAA outstation in Sao Paulo, Brazil. We were provided with a draft EY forensic audit report dated 8 October 2015 relating to an investigation of cash management at the SAA Brazil outstation;

5.3.2.3. We reviewed the report and noted that the following key findings:

5.3.2.3.1. Cash discrepancies and differences of R167 472.08;

5.3.2.3.2. Delays in collections and banking of cash;

5.3.2.3.3. Unidentified deposits and transfers;

5.3.2.3.4. General lack of policies; and

5.3.2.3.5. No internal audit and management review.

5.3.2.4. The recommendations made were namely that SAA in consultation with its legal advisors should consider the following actions:

5.3.2.4.1. Identifying the current asset position of the suspected SAA employees in order to verify whether there is evidence of an asset position and standard of living inconsistent with expected salary earning;

5.3.2.4.2. Identifying evidence of the transfer of assets during the period associated with the alleged irregularities to identify family members or third parties who may be holding assets on behalf of the suspects;

5.3.2.4.3. Performing forensic analysis and extraction of selected electronic data. Reviewing of e-mail communication with a view to identifying any evidence corroborating misconduct as well as any information and evidence related to the distribution and location of illegally diverted funds and other potential co-conspirators. This may include the recovery of deleted messages and files, to the extent possible; the identification of encrypted files on corporate devices; and analysis of Internet usage;

5.3.2.4.4. Performing data analytics to identify potentially irregular disbursements such as duplicate

payments, payments performed during off hours, weekends, holidays, transactions related to government entities, vendors not registered in the vendor master file etc. Obtain supporting documentation (contracts, proof of service etc.) related to the potentially irregular payments and perform detailed transaction review to determine their accuracy;

5.3.2.4.5. Implementing a review and approval process for financial transactions and designating at least two people to be responsible for holding the tokens to operate the Company's bank accounts;

5.3.2.4.6. Distributing and implementing appropriate SAA's policies and procedures to SAA personnel;

5.3.2.4.7. Performing regular internal audits on the operations of the SAA outstation in Sao Paulo; and

5.3.2.4.8. Performing a fraud risk assessment to identify and address potential vulnerabilities to internal fraud.

5.3.2.5. According to Mr Vilakazi, the implementation of the recommendations made concerning the Brazil outstation has yet to be tested so as to assess the improvements to date. He is currently not aware of any formal internal processes that have been formulated to implement and action EY's report recommendations;

5.3.2.6. We discussed with Mr Maharaj concerning whether any of the recommendations made had been implemented to date. Mr Maharaj was not aware of the draft EY report;

5.3.2.7. We enquired from Mr Maharaj concerning whether the anomalies detected at Brazil could be happening at other outstations namely London and Frankfurt. According to Mr Maharaj following the Brazil investigation he implemented a system whereby the RFM's at the various sales offices (outstations) are required to submit reconciliations of tickets sales versus banking, a reconciliation of Amadeus interface reporting (sales report versus bank deposits)

and credit card and cash reconciliations versus ticket sales. Furthermore in some instances bank reconciliations are being performed on a daily basis, which provides reasonable comfort that cash controls are in place and monies are not being misappropriated as in Brazil. However Internal Audit has not tested the improvements especially in high-risk currency markets such as Frankfurt and London. Based on Mr Maharaj's assertions we obtained and reviewed the sales report for London and Frankfurt outstations and compared the daily sales to the bank deposits. From the reports reviewed no discrepancies were identified;

5.3.2.8. In addition there are no documented accounting SOP's in place as was identified in Brazil; and

5.3.2.9. We recommend that Internal Audit perform regular visits to outstations such as London, Brazil and Frankfurt (including other high risk environments) to specifically analyse financial transactions in line with the Brazil findings and recommendations made.

5.4. Cost management of the major operational activities

5.4.1. Cost compression

5.4.1.1. In terms of our mandate, we are to assist the airline in determining revenue leakage and cost compression and recommend ways that may assist in reducing the leakage and costs;

5.4.1.2. During our investigation we looked at cost compression and revenue leakage areas, in consultation with the management team at SAA. This process resulted in the identification and confirmation of various areas, where management of SAA could achieve significant cost savings or revenue optimisation. Many of these initiatives were previously identified under the LTTS, but were not initiated or failed to progress, as a result of various constraints, including *inter alia*, management changes, lack of co-ordination and follow through, staffing constraints, poor governance, etc;

5.4.1.3. The fundamental issues identified by the cost compression exercise are detailed in table 9 below and indicate the expected savings per area:

	SAA - Suggested individual Cost Compression Target areas	**Total savings (R'million)**
1	**Operating expenses**	
	a) Maintenance	160.5
	b) Procurement	250.0
	c) Distribution costs	85.0
	d) Hotel accom, allowances (crew)	7.6
A	e) Centralisation of laundry	6.1
b	f) Catering expense	14.8
o	g) Aircraft leases	189.0
v	h) Renewable energy	18.0
e	i) Cargo ULD project	10.0
.	j) Cargo Fleet Plan	60.0
T	k) IT network costs	20.0
a	l) Software licenses	30.0
b	m) Labour	150.0
l	**Total operating expenses**	**1 001.0**
e	**Debt consolidation interest**	**400.0**
2 9	**Total costs savings**	**1 401.0**
:		

SSuggested cost compression target areas (prepared by SAA)

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5.4.2. Flight deck crew

5.4.2.1. The issue of excessive costs being incurred by SAA in respect of rebate travel for the flight deck crew was raised during our discussions with various SAA staff;

5.4.2.2. These potential cost savings andand increased revenue can only be achieved if the Regulating Agreement ("RA") between the SAA pilots and SAA can be set aside;

5.4.2.3. A dispute aroose when SAA previously attempted to cancel the RA and other related agreements. In 2002 a Private Arbitration was held to determine if agreement is terminable on reasonable notice. The Arbitrators ruled against SAA and held that the RA was not terminable on reasonable notice, primarily because it is not for an indefinite period:

5.4.2.3.1. 23. DURATION, AMENDMENT AND PUBLICATION OF THIS AGREEMENT

5.4.2.3.1.1. 23.1 This Agreement shall come into operation on the date of signature hereof and shall remain in full force and effect until such time as it is explicitly rescinded by a new agreement signed by both parties lated to

5.4.2.4. The Arbitrators found that the RA is not silent as to its duration, and reasoned as follows:

5.4.2.4.1. "*Clause 23 is not a clause about terminating the agreement. It is a clause which sets out, in sub-clause 23.1, to specify the period for which the agreement will endure. As such the principle stated by Smalberger AJA has no application and the practical considerations which were stressed on behalf of the Claimants must give way to the express provisions of the agreement regarding its duration. It is neither here nor there that the parties*

may have been unwise or even foolish to agree to those terms, a matter on which we make no comment. The fact of the matter is that on the plain language of the Regulating Agreement it is to endure until explicitly rescinded by a new agreement. That in our judgment excludes a right to terminate by the giving of notice.";

5.4.2.5. As of 23 October 2013, Mr Brian Patterson of ENSAfrica Inc., advised that SAA requires an approach that would effectively replace the regime regulating the relationship with the pilots, that is more appropriate, more balanced and that does not entrench benfits for the pilots that are unaffordable to SAA.

5.4.2.6. We obtained the pilots costs for the financial year 2015/2016 to determine what their salary costs are in relation to the industry and further in relation to SAA staff costs;

5.4.2.7. SAA employ **7959** staff, of which there are **754** pilots. Pilots therefore make up **9.47%** of the total SAA staff compliment;

5.4.2.8. The Pilot's salary costs for the 2015/2016 financial year was **R1, 824,610,724**. The total salary costs for SAA for the 2015/2016 financial year was **R5, 412,329,830**. This would equate to the pilots salary costs being **34%** of the total salary cost;

5.4.2.9. Although the pilots only represent 9.47% of the total staff, their salary cost totals 34% of the total salary cost;

5.4.2.10. In comparing the salary costs to that of the international, regional and domestic salary costs, we compared the SAA pilots' salaries to **59 other airlines** operating internationally, regionally and domestically;

5.4.2.11. The analysis of these other airlines is based on the Annual Benchmarking Report where 60 airlines, including SAA provide information in order to provide practical insight into industry cost structures, which help numerous airlines to be more cost efficient and assist with operating a more profitable airline;

5.4.2.12. We found that the SAA pilots were on average drastically more expensive in the domestic and regional market (narrow-body aircraft) and more expensive than the International Market (wide-body aircraft);

5.4.2.13. Using the March 2016 pilot salary base, there are **335 pilots** operating the short haul flights (narrow-body aircraft) being 45% of the SAA pilots, at an annual cost of **R677, 552,940**. The average salary per pilot paid by SAA is **R2, 022,546**. Converting the Rand based salary into a Dollar based salary using the current exchange rate of R13.79, the average salary for a short-haul pilot is US$146,668;

5.4.2.14. In discussions with Mr Nico Bezuidenhout ("Mr Bezuidenhout"), former Mango Chief Executive Officer and current Chief Executive Officer of Fast Jet, he stated that the narrow-body fleet pilots are being paid on average in excess of R1 million per pilot, when comparing SAA pilots to that of Mango pilots. Although Mango is a low cost carrier, the flight operations (duties) of pilots are exactly the same domestically and regionally. Taking Mr Bezuidenhout' s expert opinion into account, this creates an additional cost burden to SAA's operational effectiveness into these areas by approximately **R335 million**;

5.4.2.15. Using the March 2016 pilot salary base, there are **408 pilots** operating the long haul flights (wide-body aircraft) being 55% of the SAA pilots, at an annual cost of **R937, 354,470**. The average salary per pilot paid by SAA is **R2, 297,437**. Converting the Rand based salary into a Dollar based salary using the current exchange rate of R13.79, the average salary for a long haul is **US$166,602**;

5.4.2.16. As our pilots are South African based, our salaries should be based on what the domestic and regional markets are offering and not that of European, Middle East and Western countries that earn in US Dollars or Euros;

5.4.2.17. Taking the African region into account, pilots have an average salary of **US$141,108** as at September 2015. SAA average salary as at September 2015 was **US$182,038**. This provides an indication

that the SAA pilots are being paid an average of **22.48% above** the African average;

5.4.2.18. When looking at the average salaries of the 59 airlines globally, the averages for Europe were US$178,012, Asia Pacific was US$111,568.00, Middle East and Northern Africa was US$163,287. All below the average salary of SAA pilots. The only area that was higher than SAA was the average in the Americas being US$197,060;

5.4.2.19. Taking analysis of September 2015, and comparing it the current exchange rate off the SAA directly would be incorrect. We compared the average taking into account the slide of Rand from September 2015 and based the averages using the Rand as a base and converting back to the Dollar rate as of 1 August 2016;

5.4.2.20. The average salary for Africa using the Rand as a base would equate to US$135,464, and making SAA's average salary US$175,483;

5.4.2.21. Using the data obtained through IATA's analysis of the 60 airlines, SAA pilots are earning 22.48% more than the average African Airline pilot. Should the salaries be renegotiated, we would expect to see a reduction of salary of at least 15% creating a saving of **R273, 691,609**;

5.4.2.22. In addition, we noted that based on the analyses in pilot effectiveness based on productivity, SAA pilots were effectively 20% less productive than the industry norm based on the 60 airlines average. Taking the salary costs and productivity into account, this is causing SAA to have increased operating costs on every route flown on average. This in turn is reducing the route profitability which is also contributing to the losses SAA are currently experiencing;

5.4.2.23. We obtained the actual productivity of the SAA pilots. SAA pilots have an average productivity target of **900 hours per annum on the wide-body fleet, 852 hours on the narrow-body fleet and 828 hours on the Cargo fleet, as per the Extra Flight Pay (EFP) Agreement**. The average productivity for the SAA pilot is

approximately **778 hours per annum**. This amounts to an average productivity statistic of approximately **86%**;

5.4.2.24. Taking into account that the SAA pilots are working according to the Regulating Agreement between SAA and The South African Airways Pilot's Association ("**SAAPA**"), Section 11, headed Flight Pairing and Scheduling, states the following:

5.4.2.24.1. It is the intent and purpose of this section to provide for pilot participation in the development of pilot scheduling procedures which will promote the most efficient and economical operation of flights, the best possible pairing or grouping of flights, the most equitable assignment of flying time to base, the most reasonable scheduling system at each base to effect favourable working conditions within context of this section and the Flight and Duty contained in Annexure B…….

5.4.2.24.1.1. Scheduling:

5.4.2.24.1.2. The Company will be responsible for equitable distribution of pilot workload.

5.4.2.24.1.3. The Association shall have the right to participate in the planning of new Company routes and timetables.

5.4.2.24.1.4. Each fleet shall democratically select scheduling/bidding system, which meets its specific requirements. This shall be dome in consultation and agreement with the Scheduling Committees, which agreement will be subject to ratification by the Association.

5.4.2.25. Effectively, the pilots should have had an equitable workload spread with productivity being the driving factor. According to various parties within SAA, the planning of pilots has been determined by the bidding process of the pilots in terms of their seniority and did not take into account productivity targets. This enabled certain senior pilots to 'cherry pick' the routes they wanted to fly, which in turn negatively affected their productivity, and the more junior pilots worked additional time and exceeded their productivity targets. The pilots used their own manual system which was designed by a SAA pilot and chose not to use the SAA approved Pegasus System;

5.4.2.26. Currently SAA have done away with the pilot invested system as the pilot wanted compensation for it which SAA did not entertain, as such SAA are currently running a manual plotting system to plot pilot flying routes;

5.4.2.27. Once the Pegasus System is fully operational, the productivity will increase, and pilots will be having an equitable distribution of workload. This will also resolve instances of pilots only flying certain routes;

5.4.2.28. Further based on this non-equitable approach to the workload distribution, SAA accumulated **R11,324,741** (R11 million) in overtime payments, made to pilots working in excess of their agreed productivity targets, this considering SAA only have an average productivity of approximately 86% (overtime included), and are on average 20% less productive than the average airline in the September analysis;

5.4.2.29. Taking into account the overtime expenditure, this accounts for an **additional five pilot salaries**, on a pilot base that appears to be already excessive;

5.4.2.30. Taking the salary costs and productivity into account, this is causing SAA to have increased operating costs on every route flown on average. This in turn is reducing the route profitability which is also attributable to the losses which SAA are currently experiencing

5.4.2.31. Based on the ineffective productivity utilisation statistics of the SAA pilots, this has a negative financial result, and taking into account

the overtime and by increasing productivity to operate optimally, and obtaining a range of between 95% to 98%, this being an increase in productivity of 10%, this creates a benefit to SAA of approximately **R193,785,813.00** (R193 million);

5.4.2.32. In addition to having low productivity, paying overtime equivalent to five additional pilots, the pilots also enjoy the option to contract their services to other airlines and still enjoy the benefits from SAA, and depending on their contractual period with the contracting airline, they are still promoted each year within SAA ;

5.4.2.33. SAA have approved that a competitor airline – **Fast Jet utilise 13 SAA pilots** to pilot their aircrafts, and a further two pilots that operate in the Far East or America;

5.4.2.34. "*Fastjet are on their way to becoming Africa's first pan-continental airline. Since launching in 2012, they have flown nearly 2,000,000 passengers with customers benefitting from fares as low as $10 one way. Fastjet has introduced international standards of safety, quality, security and reliability with over 90% of all flights arriving on time. They are proud to support a loyal customer base - 80% of which are repeat Fastjet flyers"*

5.4.2.35. Fast Jet has five aircraft, and based on the low cost airline model of Mango, an average of 10 pilots are required per aircraft. Based on the pilots provided by SAA to Fastjet, SAA is assisting a competitor to fly **40% of their metal** in direct competition to SAA;

5.4.2.36. Fortunately SAA do not pay their pilots in respect of this particular contract period, and pilot costs are reduced by the fact that these pilots use their accumulated leave to fly for other airlines. ;

5.4.2.37. Mr Seedat provided a computation of the flight deck crew costs that are anticipated to be saved in the event that management successfully renegotiate the Regulatory Agreement 2014 ("RA"), entered into between SAA and The South African Airways Pilots' Association ("SAAPA"). There are numerous concerns relating to the RA and these will be dealt with separately within this report. The table 10 below sets out the determination of the total anticipated savings arising from the renegotiation of the RA by SAA:

Flight deck crew savings if the Regulatory Agreement is re-negotiated	
	Rm
Remuneration notch increases	41.3
Simulator/check allowance	21.4
Pension	75.0
Travel Benefit	63.0
Sick leave	46.0
Leave	49.0
Maternity leave	7.8
Reduction of leave liability	152.6
	456.1

Above: Table 10: Flight deck crew savings if the Regulatory Agreement is renegotiated

5.4.2.38. With specific reference to the cost saving of R63 million relating to flight deck crew rebate travel, the following terms and conditions are relevant to the determination made, based on the rules set out in the RA, and subject to further investigation by Seedat and his team;

5.4.2.39. Rebate classes are released 72 hours prior to departure for SAA staff, dependent on load factors that are forecasted for any given flight. With regards to the flight deck crew and their family members, they are entitled to obtain seats regardless of the forecast and they may confirm seats up to 3 months in advance, subject to the payment of perks tax. The flight deck crew and their family members have preference over a revenue-paying passenger when it comes to availability on a flight.

5.4.2.40. Market related revenue does not accrue to SAA as the flight deck crew and their family members fly at pre-determined rebate rates which are significantly lower than those achievable from external full fare paying customers, even if perks tax is factored in;

5.4.2.41. The flight deck crew are liable for fringe benefit taxation incurred on the utilisation of these rebate tickets, in the circumstances that the rebate travel is confirmed longer than 72 hours in advance of the planned flights;

5.4.2.42. Mr Seedat obtained a data download from IT, a report styled, "Post departure information from flights (Cognos Report)". This data was extracted to only include the payroll area detailed "S6", which relates specifically to flight deck crew and their authorised family members' rebate travel;

5.4.2.43. Mr Seedat worked with a Network Planning Analyst to determine the flights where the business class load factor was at least 80%. This basis of the flight route determination was obtained from the historical data collected through SAA's reservation system. As per discussion with Seedat, he further identified the peak periods for the respective routes flown by the flight deck crew. The data was then sorted to only include the frequency of flights (by number of flights) that were taken by the flight deck crew and their family members during these peak periods. It is noted that only in the case of 4 of the 17 routes flown, was December travel included in the peak periods. Should the peak periods of travel be adjusted to include the December timeframe, there could be a significant further allocation of cost associated with flight deck crew rebate travel (approximately further R20 million cost allocation);

5.4.2.44. Mr Seedat then obtained the costing for those flights, based on the usage by the flight deck crew and their family members for the 2015 calendar year, and applied this cost to the number of flights on each given route flown;

5.4.2.45. In the absence of independent data, we have critically reviewed the computation prepared by Seedat and his team in this regard. The representation of this calculation is set out in table 11 below:

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Flight deck crew plus family member rebate travel in 2015
(in respect of flights taken during peak periods)

Route flown	Peaks	Number of trips	Cost per trip	Total
Johanneburg/Harare	Nov-Dec	13	3 735	48 552
Johanneburg/Cape Town	Aug-Nov	1 781	2 919	5 198 721
Johanneburg/Durban	Aug-Sept	622	1 904	1 184 450
Johanneburg/East London	July-Nov	188	2 028	381 290
Johanneburg/Port Elizabeth	July-Nov	482	2 291	1 104 460
Johanneburg/Lagos				-
Johannesburg/Lilongwe				-
Johanneburg/Luanda	Aug-Oct	5	5 105	25 525
Johanneburg/Mauritius	Sept-Dec	303	5 489	1 663 312
Johanneburg/Victoria Falls	July-Dec	63	3 343	210 615
Johanneburg/Windhoek	July-Nov	89	2 762	245 835
Johanneburg/Frankfurt	Whole year	603	17 254	10 404 337
Johanneburg/Munich	July-Nov	179	17 414	3 117 170
Johanneburg/Hong Kong	April-Nov	733	14 188	10 399 980
Johanneburg/London	July-Nov	296	19 678	5 824 650
Johanneburg/JFK	July-Oct	567	31 805	18 033 265
Johanneburg/Washington	July-Oct	195	26 412	5 150 387
				62 992 549

Above: Table 11: Flight deck crew plus family member rebate travel taken in 2015

5.4.2.46. It is noted that the cost savings referred to in these calculations would entail robust negotiations with SAAPA and will require significant changes to be made to the RA entered into with SAAPA;

5.4.2.47. Applying the pilots travel benefits for the 2015 calendar year and using the 2016 average fares on all flights utilised by pilots, this additional benefit totals approximately **R185 million**, and based on their contractual benefits - fare paying passengers cannot purchase seats that have been requested and booked by pilots;

5.4.2.48. Passengers are forced to look for alternative competitor airlines to transport them;

5.4.2.49. We have obtained information that nine pilots are resident in Australia and the United States of America, of which two are operating businesses and aligning their flight schedules around their personal situation;

5.4.2.50. We have analysed these pilots and the schedule included at Table 12 below indicates the number of routes flown for the 2015 and 2016 years:

CREW	NAME	BASE	HOME/ BUSINESS BASE	POOL	RANK	YEAR	JFK	PERTH	LONDON
CBH999A	TOMLINSON PAUL	JNB	Perth	A330	CAPT	2015		25	
CBH999A	TOMLINSON PAUL	JNB		A330	CAPT	2016		12	
842950C	SPENCE KEITH	JNB	London	A330	CAPT	2015			**19**
842950C	SPENCE KEITH	JNB		A330	CAPT	2016			**9**
SBN091E	ODENDAAL NICO	JNB	USA	A330	CAPT	2015	15		
SBN091E	ODENDAAL NICO	JNB		A330	CAPT	2016	7		
CCC383C	WINSAUER ARNULF	JNB	Windhoek	A330	CAPT	2015			
CCC383C	WINSAUER ARNULF	JNB		A330	CAPT	2016			
CBG694Q	BIGNOUX MARC	JNB	Perth	A330	CAPT	2015		15	
CBG694Q	BIGNOUX MARC	JNB		A330	CAPT	2016		11	
CFD834A	STEGMANN CHRISTINE	JNB	Perth	A330	CAPT	2015		**6**	
CFD834A	STEGMANN CHRISTINE	JNB		A330	CAPT	2016		**4**	
812895P	HAGER CARL	JNB	Perth	A330	CAPT	2015		14	
812895P	HAGER CARL	JNB		A330	CAPT	2016		10	
SBP893Y	KROP PETER	JNB	Perth	A330	CAPT	2015		**10**	
SBP893Y	KROP PETER	JNB		A330	CAPT	2016		**7**	
SBQ287F	ERASMUS NIC	JNB	Perth	A330	CAPT	2015		2	
SBQ287F	ERASMUS NIC	JNB		A330	CAPT	2016			

Above: Table 12: Number of routes flown per annum by SAA pilots for 2015 and 2016

5.4.2.51. Captain Nic Erasmus has been placed on suspension and therefore not flying, thus he has no flights rostered for the 2016 year. Captain Erasmus was placed on suspension in 2015;

5.4.2.52. Captain Christine Stegmann previously flew the majority of her flights to Perth, as she was in an alleged relationship in Australia, since then the relationship has ended, and Captain Stegmann now flies the JFK route as she has friends in America. During the same period, Captain Stegmann flew 6 times in 2015, and as of June 2016, has flown six times to JFK;

5.4.2.53. The manner in which these nine pilots are scheduling their flights has a negative effect on their productivity and also negatively impacts the morale of more junior pilots;

5.4.2.54. Further to this, pilot spouses and/or children also fly to the same destination on the aircraft the pilot is operating to the overseas destinations;

5.4.2.55. The pilot then has on average a two-day stay at the overseas destination where he is still on duty;

5.4.2.56. These duty days are then used as additional off days for family excursions;

5.4.2.57. We are in the process of obtaining a legal opinion to determine whether pilots who are on duty can bring their family with them whilst they are on duty and are to be resting;

5.4.2.58. An additional concern regarding these Slipping Days, is that SAA originally only had a one-night stopover at Washington, New York and Perth, and based on a fatigue complaint by Captain Stegmann, an internal study was performed by Captain Wynand Serfontein. His study found that a two-night stopover would better suit the pilots in terms of avoiding fatigue. The standard based on the CAA flight and duty legislation is a one-night stopover. An external aviation expert should have conducted this exercise, as the study prepared by Captain Serfontein, is a study effectively requested by SAA pilots and prepared by SAA pilots. This findings are subjective.

5.4.2.59. SAA appear to be paying for an extra night per flight per destination for all pilots. These costs relating to hotel and subsistence expenses are conservatively estimated at approximately **R10 million per annum**; and

5.4.2.60. Taking into account the additional savings set out by SAA in Table 10 above, and the additional findings made, it is envisaged that the potential saving in respect of flight deck crew salary and related benefits amounts to just over **R1 billion**.

5.4.2.61. In addition to the above, it was brought to our attention that all employees of SAA are allocated a number of discounted tickets for their own use and for use by their specifically nominated family members or friends.

5.4.2.62. These tickets are issued at 25% of ticket price and are intended to be used on a stand-by basis only i.e. if fare paying passengers need the seat on that specific flight, then staff/family/friends need to give up their reserved seat to full fare-paying passengers.

5.4.2.63. It appears that there is an ability to bypass this system and certain staff members are able to obtain a confirmed seat on fully booked flights. The example brought to our attention involved a staff member, who upon boarding a plane heading to Durban at the time of the Tourism Indaba, boasted about the fact that "*if you know people in the right places, then you can get a confirmed seat ahead of time*".

5.4.2.64. It is extremely difficult to corroborate whether this was actually the case and the internal control breakdown would in any event be very difficult to verify. This appears to be an ad hoc issue, however, SAA management should review the processes in place to ensure that any current abuse of this privilege ceases forthwith as it could result in financial losses to SAA, if fare-paying passengers are turned away.

5.4.3. Flight deck and cabin crew hotel accommodation and ground transportation expense

5.4.3.1. SAA currently flies to a total of 10 locations internationally, 14 locations regionally and five domestic locations. These routes are operated by SAA and require the provision of lodging as well as ground transportation for the flight deck as well as cabin crew;

5.4.3.2. SAA has entered into agreements with both the cabin crew (Cabin Crew Hotel Selection Policy – In-Flight Services Policy 001) and the flight deck crew (Regulating Agreement with particular reference to section 10) in order to identify the minimum standard of service to be provided to the employees in order to ensure that employees remain well rested and available to perform their required duties to the best of their abilities, while complying with the required applicable laws governing rest of flight crew;

5.4.3.3. These predetermined standards govern the selection of all hotels and require that employees select hotels as part of an inclusive process to ensure that the standards remain at the highest level of quality;

5.4.3.4. The procurement process followed by SAA in respect of sourcing and awarding hotel accommodation procurement contracts for flight deck and cabin crew is as follows:

5.4.3.5. When SAA is first flying to a new international or regional destination or when an existing hotel accommodation contract is nearing its expiration date, a committee of union members (with SAAPA representing the pilots and UASA, NTM and SACCA representing the three unions representing cabin crew) along with representatives from the Global Supply Management team ('GSM'), compile a list of prospective hotel accommodation service providers. This committee is collectively known as the cross-functional sourcing team or 'CFST'. The CFST is responsible for proposing a list of suitable and preferred prospective service providers;

5.4.3.6. This list of preferred service providers is then forwarded to the resident country manager for their cursory review and for them to provide details, which include the proximity of the proposed hotel to the respective airport and the star rating of the particular hotel. These details are gathered for inclusion in documentation submitted to the BAC.

5.4.3.7. Once this list is reviewed by the resident country manager, a request for proposal ('RFP') is drawn up in accordance with the procurement policies and this RFP is sent to all the prospective service providers, inviting them to provide their required information

as well as providing a proposed pricing structure for SAA's consideration;

5.4.3.8. Once the responses are received in accordance with the RFP requirements and deadlines, SAA mandates an outsourced service provider, hotel connections, to enter into price negotiations on behalf of SAA, with the prospective hotels that indicated their interest by responding to the RFP. Furthermore, upon return of the duly completed RFP request by the hotels, the CFST delegation is responsible to physically inspect a short list of prospective hotels. The short list is determined by the CFST;

5.4.3.9. The CFST jointly do on-site inspections of the various prospective hotels and then all interested parties are required to submit their preferred selection of hotels to the project leader. The preferred selection of prospective hotels is determined in accordance with the policies and processes contained within the Regulating Agreement (for flight deck crew) or Cabin Crew Hotel Selection Policy (for cabin crew);

5.4.3.10. The project leader takes these recommendations into account and a consolidated submission is presented by the CFST to the Bid Adjudication Committee ('BAC') for their consideration. The submission to the BAC includes a narrative supporting the selections made by the CFST as well as containing computations supporting the financial implications of selecting each given hotel choice (for those hotels physically inspected by the CFST);

5.4.3.11. As per inspection of the records provided by SAA, it is noted that in the 2015/16 financial year, a total amount of R297 million was spent on the accommodation and ground transportation of crew (including both flight deck and cabin crew), at all destinations where SAA crews are required to have an overnight stay;

5.4.3.12. Based on the preliminary interviews conducted with SAA staff, this expense item has been identified as an area for possible wide ranging cost savings, which could be implemented as part of the current cost compression strategy at SAA.

5.4.3.13. <u>Information received and considered for investigation purposes</u>

5.4.3.13.1. The findings in this report have been compiled after the review and analysis of information obtained from the following documents that were made available to our team;

5.4.3.13.1.1. Issuing of request for proposals (RFP) to various hotels;

5.4.3.13.1.2. Email correspondence received from hotels with regard to the RFP;

5.4.3.13.1.3. Review of Annexure 1 received from hotels;

5.4.3.13.1.4. Completed mandatory crew hotel selection criteria documents;

5.4.3.13.1.5. Hotel inspection feedback supplied via email;

5.4.3.13.1.6. BAC decision records;

5.4.3.13.1.7. Letter of Engagement (LOE) issued to selected hotels;

5.4.3.13.1.8. Contracts entered into between SAA and the selected hotels;

5.4.3.13.1.9. Other documents with regard to hotels including feedback and complaints by staff; and

5.4.3.13.1.10. Email correspondence available between SAA and the contracted hotel.

5.4.3.14. In order to ensure that the information received was valid and correct, we performed a high level analytical review of a component of the flight deck and cabin crew expense, in respect of the Hong Kong expense. The anticipated annual spend was compared against the actual costs incurred for the 2015/16 financial year end, as shown in the table below:

Hong Kong analytical review	
Rooms per annum (anticipated per contract)	11 022
Rate - HKS	1 328
Expected cost	14 637 216
2015 average exhange rate	1 HKS : R1.64
Expected total ZAR cost	R 23 950 326
Actual cost incurred for FY 2015/16	***R 25 180 913***
Difference	R 1 230 586
	5%

5.4.3.15. As can be seen from the analytical review set out above, a 5% difference was noted in the expected costs versus the actual costs. This difference is considered immaterial and can be attributed to the fluctuation of exchange rates throughout the year. It was therefore determined that the financial information regarding the breakdown of hotel and ground transportation costs as received from staff at SAA, was deemed accurate in order to compile the findings below.

5.4.3.16. Procedures performed

5.4.3.16.1. We reviewed and analysed the information received from the SAA procurement and commercial team;

5.4.3.16.2. The process followed in each instance, in respect of the various contracts reviewed pertaining to flight deck and cabin crew lodging and transport expense, involved obtaining the complete contract file and documenting the procedures followed by the procurement Department in awarding the various contracts;

5.4.3.16.3. These files were then analysed in detail, with a review of the current and historic contracts, in order to identify ongoing trends or possible non-compliance with agreed upon protocol or procedures and to establish whether the regulations stipulated in terms of the PFMA have been adhered to;

5.4.3.16.4. The contracts analysed were reviewed both qualitatively as well as quantitatively in an attempt to benchmark the hotel costs against other hotels in the area for each given region (destination), in order to identify potential cost savings;

5.4.3.16.5. In addition, we reviewed the documented process followed by SAA staff when approving hotel service providers to identify any possible oversight, non-compliance with SAA policies or cost saving opportunities available within the procurement processes in this regard.

5.4.3.17. We selected and reviewed five contracts in detail, in order to identify trends and evaluate current practices that may be leading to the inflation of costs and possible fruitless and wasteful expenditure at SAA. The samples of contracts were selected based on the Rand value for both regional and international destinations with the two highest value international contracts (New York and Hong Kong, respectively) and two highest value regional contracts (Accra and Dakar, respectively) while an additional randomly selected contract for Sao Paulo was selected.

5.4.3.18. The destinations selected for investigation were as follows:

5.4.3.18.1. New York – top international actual expense;

5.4.3.18.2. Hong Kong – second highest international actual expense;

5.4.3.18.3. Sao Paulo – random selection;

5.4.3.18.4. Accra – highest regional actual expense; and

5.4.3.18.5. Dakar – second highest regional actual expense.

5.4.3.19. A breakdown of the costs incurred for the above sample is as follows:

Destination	Hotel expenses FY 2015/16 R	Travel expenses FY 2015/16 R	Total hotel and travel expense FY 2015/16 R	Anticipated number of rooms	Average rate per room R
New York	48 474 193	2 958 379	51 432 572	13 140	3 914
Hong Kong	25 180 913	961 631	26 142 544	11 022	2 372
Sao Paulo	15 882 806	779 210	16 662 016	12 414	1 342
Accra	24 935 878	952 785	25 888 663	16 571	1 562
Dakar	12 946 679	-	12 946 679	12 322	2 887
Total value sampled	127 420 469	5 652 005	133 072 474		
Total expense recorded	249 005 469	41 855 267	290 860 736		
Sample as % of total expense	51%	14%	46%		

5.4.3.20. It should be noted that the travel expense for FY 2015/16 amounted to approximately R41.9 million, of which an amount of approximately R19.2 million was paid to a single contactor, Mudziwa Travel, in respect of local ground transportation for the FY 2015/16 financial period. This contract has consequently been selected for a separate detailed review by ENS. It was indicated by Ms Slabbert of the GSM Department, that this contract file was currently (as at 24 November 2016) being reviewed by National Treasury and therefore was not available for our corresponding review. Although this contract has been requested on numerous occasions (both by ENS and former independent consultants wishing to review this contract) there has, to date, been no contract provided for review.

5.4.3.21. Based on the work performed and information received it was found that the findings of this section of the report can be categorised as follows:

5.4.3.21.1. Findings relevant to individual destinations (included in sample);

5.4.3.21.2. General trends and findings relevant to all destinations (included in sample); and

5.4.3.21.3. Compliance with SCM policy and adherence to the Regulating Agreement in respect of hotel accommodation for flight deck and cabin crew.

5.4.3.22. New York

5.4.3.22.1. The total cost of crew hotel and travel expenses in New York amounted to approximately R51 million in FY 2015/16, which is the highest international spend on travel and hotel at any of SAA's destinations and routes. This destination requires a total anticipated occupancy of 13 140 rooms per annum, to accommodate SAA's flight deck and cabin crew;

5.4.3.22.2. The current contracts in place were originally negotiated to run from 1 March 2015 until February 2017. Currently the hotels contracted to provide a service to SAA are:

5.4.3.22.2.1. the Renaissance Hotel for cabin crew; and

5.4.3.22.2.2. the Grand Westin for flight deck crew.

5.4.3.22.3. The concerns noted with regard to the New York hotels are centred on the fact that the service providers awarded the contracts do not conform to the BAC decision that was taken on 16 November 2012, whereby the BAC recommended that cabin crew and flight deck crew use the same hotel. Specifically, the BAC discussed moving the flight deck crew to the same hotel accommodating the cabin crew, in order to save costs. Had this decision been followed and had both the flight deck and cabin crews been accommodated at the Renaissance Hotel, SAA would have realised a saving of R1.5 million per annum (or R3 million over the duration of the two-year contract);

5.4.3.22.4. This saving relates solely to accommodation savings and does not take into account further costs that would be saved in respect of the ground

transportation of the combined crews and/or any bulk discount that could have been attained through the negotiation process, as a result of procuring a larger number of rooms to be utilised at a single service provider;

5.4.3.22.5. Further to the above, it was noted (as part of the initial submission to the BAC) that the option of staying outside Manhattan, in closer proximity to JFK International Airport, was presented to the flight deck and cabin crew. The rationale behind this option was to realise savings in transport costs due to the distance and length of time taken (particularly in peak travel periods) to travel from the airport to Manhattan. More significantly, large savings would also be realised on accommodation costs when staying in hotels in areas that do not demand a premium per room when compared to hotels in Manhattan;

5.4.3.22.6. The option suggested by management was the Grand Hyatt Flushing Hotel, which was inspected by the GSM team, after this hotel was identified as meeting all the specific criteria required by the combined crew (as set out in the Regulating Agreement). It is noted that although this hotel did not meet the minimum 4-star requirement (it is officially a 3-star establishment), that all the specifications included in the Regulating Agreement were met. Consequently, this hotel was deemed appropriate by the BAC as an option that should at least be inspected and assessed by the inspectorate delegation responsible for giving the BAC feedback as to the hotel's suitability to be awarded the hotel accommodation contract.

5.4.3.22.7. The crewmembers, however, openly refused to inspect the Grand Hyatt Flushing Hotel or consider the hotel as a viable option. This refusal by the

crew to inspect the hotel (or any other hotel in closer proximity to JFK airport) has resulted in the Manhattan hotels being preferred by the combined crew and ultimately costing SAA an additional R12.3 million in expenses for each year of the two-year contract. Consequently, the decision by the combined crew (in respect of the preferred New York City hotel) has directly resulted in approximately R24.6 million in unnecessary expenditure over the two-year contract period for SAA, when comparing to the alternative hotel accommodation as recommended by the GSM.

5.4.3.22.8. This open refusal by the crew undermines the authority and power that is entrusted to the BAC, as the BAC have been unable to enforce their recommendations and decisions or impose any real form of cost saving. The flight deck and cabin crew appear to be obstructing the BAC recommendations when signing off on awarding significant procurement contracts to prospective hotel accommodation service providers;

5.4.3.22.9. It is further noted through our investigation into the irregular awarding of these procurement contracts, that the cabin crew and flight deck crew had a difference in opinion (expressed through their respective representations on the delegation tasked with assessing the applicability and appropriateness of the relevant New York hotel options) as to the suitability of the proposed Hudson Hotel (as suggested by the cabin crew representatives) as the preferred service provider when staying in New York.

5.4.3.22.10. The Hudson Hotel in Manhattan was initially awarded the procurement contract for hotel accommodation for SAA cabin crew, while due to, inter alia, the reasons below, the flight deck crew

insisted that the contract for the flight deck crew accommodation be awarded to the Westin Grand Hotel;

5.4.3.22.11. Following the on-site inspection of the Hudson Hotel, members of SAAPA informed the BAC that the Hudson Hotel did not meet the minimum criteria required by any prospective hotel to be chosen as a service provider of flight deck and cabin crew accommodation. The main issues raised by SAAPA were that rooms were not an adequate size, coupled with the fact that the noise levels within the hotel were expected to be excessive as a result of the party atmosphere and numerous live music venues within the hotel lobby and in near vicinity to the hotel;

5.4.3.22.12. The flight deck crew therefore decided to award the procurement contract to the Westin Grand and a contract was duly agreed with that hotel for the flight deck crew accommodation. Peculiarly, the concern surrounding the noise levels and size of rooms did not (at first) seem to deter the cabin crew and they awarded their procurement contract to the Hudson Hotel;

5.4.3.22.13. The above concerns, amongst other alleged complaints, led to the subsequent cancellation of the cabin crew contract with the Hudson Hotel and the cabin crew determined that a new contract should be entered into with Renaissance Hotel in Manhattan, in order to better meet their needs. These additional costs could have been avoided had the BAC taken note of the concerns raised by SAAPA and outright rejected the Hudson Hotel when these concerns were originally raised by the inspectorate delegation specifically sent to stay, review and evaluate the prospective hotels for suitability. It is imperative that the BAC give equal

weighting to all concerns raised in order to prevent possible problems and (in this instance) additional costs to cancel existing contracts and re-evaluate prospective service providers and their respective offerings when consequently re-awarding the contract to a different service provider;

5.4.3.22.14. It is unacceptable that a hotel is selected as the service provider of choice, when such serious concerns were highlighted by one of the unions evaluating the applicability of any given hotel. It is possible that the Hudson Hotel posed a safety risk to SAA crew and passengers, as the contract with the Hudson Hotel would not have afforded the crew the sufficient and adequate quality of rest that was required to provide SAA's service at the appropriate safety levels;

5.4.3.22.15. Further to the above, it was noted that upon the reselection of the cabin crew hotel, when replacing the Hudson Hotel, that a less detailed submission was made to the BAC. Although the predetermined procedures appear to have been followed as part of the new submission to the BAC, a less detailed calculation was supplied in the preparation of the relevant costing's. Due to the less detailed costing presented, we cannot ascertain whether SAA management selected the most affordable option when deciding on awarding the new contract to the Renaissance Hotel;

5.4.3.22.16. Table 1 (flight deck crew) and Table 2 (cabin crew) as set out immediately below, illustrate the anticipated costs to be incurred when the BAC evaluated the array of prospective hotels considered as service providers for accommodation needed for SAA crew traveling to JFK in New York.

Table 1 - Cost comparison for the flight deck crew (destination - New York)									
	Westin Grand Hotel	Hudson Hotel	Renaisance Hotel	**Grand Hyatt Flushing Hotel**	Lexington Hotel	Manhattan at Times Square	Yotel Manhattan Hotel	Double Tree Financial District	Wyndham New York
Anticipated rooms per annnum	2 920	2 920	2 920	2 920	2 920	2 920	2 920	2 920	2 920
Rate per room per night	255	305	219	178	229	225	205	199	219
Hold over charge	-	-	-	-	115	113	103	100	110
Total cost - USD per annum *1USD = R13.45 (03/11/2016)*	744 600	889 257	639 480	519 760	1 003 020	985 500	897 900	871 620	959 220
Total cost - Rand per annum	10 014 870	11 960 504	8 601 006	6 990 772	13 490 619	13 254 975	12 076 755	11 723 289	12 901 509
Total cost - Rand two-year contract	20 029 740	23 921 008	17 202 012	13 981 544	26 981 238	26 509 950	24 153 510	23 446 578	25 803 018

5.4.3.22.17. As set out in Table 1 above, it is clear that although the SAAPA has elected for the flight deck crew to stay at the Westin Grand in New York City, that the Renaissance Hotel is approximately R2.8 million cheaper over the two-year contract period while the Grand Hyatt Flushing Hotel is approximately R6 million cheaper than the Westin Grand for the comparative two-year contract period.

Table 2 - Cost comparison for the cabin crew (destination - New York)						
	Renaisance Hotel	**Hudson Hotel**	Marriot Marquis Hotel	Lexington Hotel	Millennium Hotel	**Grand Hyatt Flushing Hotel**
Anticipated rooms per annnum	10 220	10 220	10 220	10 220	10 220	10 220
Rate per room per night	219	224	269	259	200	178
Hold over charge	10 360	-	-	-	1 022 000	-
Total cost - USD per annum *1USD = R13.45 (03/11/2016)*	2 248 540	2 289 280	2 749 180	2 646 673	3 066 000	1 819 160
Total cost - Rand per annum	30 242 863	30 790 816	36 976 471	35 597 757	41 237 700	20 974 915
Total cost - Rand two-year contract	60 485 726	61 581 632	73 952 942	71 195 514	82 475 400	41 949 830

5.4.3.22.18. As set out in Table 2 above, it is clear that although the cabin crew unions have elected for the cabin crew to stay at the Renaissance Hotel, which is the cheapest of the Manhattan-based hotels when comparing the array of prospective hotels based in New York, it is considerably more expensive (additional R18.5 million over the two-year contract period) when compared to the costs charged at the Grand Hyatt Flushing Hotel which met the criteria as a suitable hotel but which was rejected by the cabin crew as being an appropriate service provider. It is further noted that the Hudson Hotel, which was originally contracted to host the cabin

crew, came at a premium of approximately R1.1 million when compared with the Renaissance Hotel (where the cabin crew currently reside when they have a stop-over in New York).

5.4.3.23. Sao Paulo

5.4.3.23.1. The total cost of flight deck and cabin crew hotel and travel expenses amounted to approximately R16.6 million in FY 2015/16 and requires a total of 12 414 rooms per annum;

5.4.3.23.2. We have included the selection of the Sao Paulo hotels on a random basis. This travel expenditure falls outside the two highest value contracts in terms of international destinations, but remains a significant annual expense for SAA;

5.4.3.23.3. The contracts for separate hotels for the flight deck and cabin crew were initially negotiated to run from August 2015 until February 2017, however the current contract has now been awarded to a single service provider, following complaints from the cabin crew as set out forthwith. Currently the hotel providing accommodation for SAA in Sao Paulo is the Tivoli Hotel for both cabin crew and flight deck crew;

5.4.3.23.4. Previously, cabin crew were accommodated at the Makskoud Plaza Hotel, however, after a number of complaints regarding hygiene and safety issues, the cabin crew requested that SAA source a new service provider. Flight deck crew were previously accommodated at the Renaissance Hotel and subsequently moved to the Tivoli Hotel, as it was believed that the Tivoli Hotel represented a better value proposition for SAA;

5.4.3.23.5. The cabin crew was relocated to the Tivoli Hotel five months after the flight deck crew had been

relocated there. The reasons for the move were given that it would be considered to be more in line with the hotel sourcing strategy of accommodating both flight deck and cabin crew at the same hotel and to also eliminate the costly tender process of reviewing a further array of prospective hotels for the cabin crew to consider. This reasoning appears to be flawed, as it is quite likely that further hotels within Sao Paulo city could be sourced, which while meeting the minimum criteria required by the cabin crew unions, could ultimately be cheaper than the Tivoli Hotel. Considerably more cabin crew need to be accommodated at any given point in time than flight deck crew, so unless a comparative analysis is carried out including an array of prospective service providers, SAA may easily be left paying incrementally more at the Tivoli Hotel for the cabin crew, than at other cheaper yet as suitable hotels in Sao Paulo;

5.4.3.23.6. On 16 November 2012, the BAC made a recommendation that all flight deck crew be moved from their currently contracted to hotels to the hotels then accommodating the cabin crew. This was suggested as a cost cutting measure at SAA. The fact that the cabin crew has been relocated to where the flight deck crew was residing is therefore in direct contradiction to the BAC suggestion to try and save costs. Furthermore, by circumventing the due tender processes and procedures in this regard, management of SAA were not afforded the opportunity to find more affordable options that may have existed in the market. It appears that policies were not adhered to in order to gain an outcome that was desirable to both the flight deck and cabin crew members, but to the detriment of SAA as a whole from an increased cost perspective;

5.4.3.23.7. A further concern was noted, whereby the rates quoted in the BAC documents, contracts and RFPs did not correlate to each other. It appears as though the rates for the Renaissance Hotel and Tivoli Hotel were incorrectly captured within the computation provided as support in the submission made to the BAC. The price per room indicated in the contract was not the same price per room included in the calculations presented to the BAC. This is a considerable risk for SAA, as the respective hotels may be charging an inflated price, which is higher than the rate originally negotiated with the chosen service providers. As evidenced in Annexure A of the contract entered into between SAA and the Tivoli Hotel, a price per room per night of BRL436 is disclosed, however, as per the BAC submission calculations, a price per room per night of BRL444 was captured. A further error was also identified in our investigation concerning the calculations submitted to the BAC. The quoted price per room per night in respect of the Renaissance Hotel was inflated from BRL418 to BRL477, and these errors (whether arising from negligent or malicious intent) resulted in the Tivoli Hotel being incorrectly assessed as the cheaper option when evaluating the BAC documentation. Had the component costs within the BAC submission documentation been correctly captured, a saving of approximately R2 million over the duration of the two-year contract could have been realised by SAA;

5.4.3.23.8. Another concern was the initial negotiation of separate contracts for flight deck crew and cabin crew. It does not make financial sense for SAA (as evidenced in the Sao Paulo contract) where cabin crew received a discount based on the anticipated number of rooms to be booked over the duration of the contract. Had one contract been negotiated

covering both the flight deck and cabin crews, an even greater discount could in all likelihood have been negotiated by SAA by virtue of the fact additional capacity would be utilised by SAA flight deck crew in addition to the cabin crew occupancy. This cost saving, considered in conjunction with the costs saving as a result of not requiring two separate tender processes to be completed would most probably have resulted in significant cost savings for SAA;

5.4.3.23.9. Table 3 below shows the costs incurred at the current hotel as well as the possible cost saving available, had the correct hotel been selected in accordance with the due procurement processes to be followed:

Table 3 - Cost comparison flight deck and cabin crew (destination - Sao Paulo)

	Tivoli Hotel	Rennaisance Hotel	Hilton Hotel	Golden Tulip Paulista Plaza	Blue Tree Premium Faria Kima	Grand Hyatt	Staybridge Suites
Anticipated rooms per annum	12 414	12 414	12 414	12 414	12 414	12 414	12 414
Rate per room per night *	438	419	410	388	168	480	478
Hold over charge	-	-	205	194	84	240	-
Total cost - BRL per annum	5 434 932.80	5 200 845	7 625 300	7 233 327	3 119 018	8 935 287	5 930 789
1 BRL = R4.16 (03/11/2016)							
Total cost - Rand per annum	22 609 320	21 635 516	31 721 246	30 090 642	12 975 113	37 170 793	24 672 080
Total cost - Rand two-year contract	45 218 641	43 271 033	63 442 492	60 181 284	25 950 226	74 341 587	49 344 160

Legends with regards to the rate per room per night for the Tivoli Hotel, a weighted average cost determination has been made. This was carried out as to combine the value attributable to both flight deck and cabin crew as one reported figure in table 3 to be compared to the array of hotels proposed for Sao Paulo as a destination.*

5.4.3.23.10. As set out in Table 3 above, it is clear that, had the Renaissance Hotel been selected, SAA would have realised approximately R2 million in cost savings over the duration of the two-year contract;

5.4.3.23.11. Table 4 below sets out the determination of the total anticipated expense for the Tivoli Hotel based on

the two separate rates quoted for rooms per night for both the flight deck and cabin crew.

Table 4 - Determination of weighted average cost (Tivoli Hotel)			
	Flight deck crew	Cabin crew	Flight deck and cabin crew combined
Anticipated rooms per annum	2 752	9 662	12 414
Weighted average rate per room per night	444	436	438
Hold over charge			
Total cost - BRL per annum	1 222 301	4 212 632	5 434 933
1 BRL = R4.16 (03/11/2016)			
Total cost - Rand per annum	5 084 771	17 524 549	22 609 320
Total cost - Rand two-year contract	10 169 543	35 049 098	45 218 641

5.4.3.24. Hong Kong

5.4.3.24.1. Hong Kong represents SAA's second most costly international destination and accounted for approximately R26.1 million of crew accommodation and travel expense in FY 2015/16 and requires 11 022 rooms per annum. Currently the hotel being used is the Intercontinental Grand Stanford, which accommodates both flight deck and cabin crew. The current contract was entered into in March 2015 and will conclude in February 2017;

5.4.3.24.2. Both cabin crew and flight deck crew have been staying in this hotel since March 2013 and as the hotel has not received any complaints in this regard the contract has been ongoing and renegotiated after every contract period end. A benchmarking exercise was performed to determine the current costing of the hotel in relation to the other hotels in the area. The hotel was compared to three other hotels and found to be the most affordable and as the hotel is enjoyed by all crew members the decision was taken to continue staying there;

5.4.3.24.3. The concern in this regard is that the hotel was only benchmarked against a limited number of other hotels and in order to ensure that SAA continues to obtain the most affordable accommodation for its

crew, a wider search needs to be performed. Comparing against three hotels does not provide the BAC with a wide range of options in order to assess the proposal placed before them. As the benchmark hotels are selected by combined flight deck and cabin crew, it may be that the proposed hotels are deliberately more expensive or deliberately exclude more affordable hotels, as the SAA crew may not wish to move from their current hotel choice. Further to the above, the crews have not provided any alternative options, which are in closer proximity to the airport. As evidenced in the scenario of New York City as a destination, there are significant cost savings that can be achieved if SAA were to actively review hotels more conveniently located to the respective airports and not necessarily in the attractive and more expensive tourist and/or city centre locations;

5.4.3.24.4. Table 5 below, sets out the limited options proposed as part of the submission to the BAC. This analysis set outs the high cost of the alternative options within the city centre and did not include any hotels in closer proximity to the airport.

Table 5 - Cost comparison (destination - Hong Kong)

	Intercontinental Grand Stanford	The Excelsior	JW Marriot	Renaissance Hotel
Anticipated rooms per annnum	11 022	11 022	11 022	11 022
Rate per room per night	1 328	1 518	2 100	2 420
Hold over charge	1 511 100	4 243 470	-	-
Total cost - HKS per annum *1HKS = R1.74 (03/11/2016)*	16 148 316	20 974 866	23 146 200	26 673 240
Total cost - Rand per annum	28 098 070	36 496 267	40 274 388	46 411 438
Total cost - Rand two-year contract	56 196 140	72 992 534	80 548 776	92 822 875

5.4.3.25. Dakar

5.4.3.25.1. The hotel accommodation and ground transportation expense in respect of Dakar amounted to approximately R12.9 million during FY

2015/16 and currently the anticipated occupancy amounts to 12 322 rooms per annum. The hotel currently in use is the King Fahd Palace, whose contract has just ended and is currently up for tender;

5.4.3.25.2. Dakar was selected for inspection due to the fact that it is the second highest budgeted expense for regional destinations for SAA. The high level of expenditure is necessitated by the fact that Dakar is used as one of the layover destinations for travel from South Africa to Washington DC in the USA;

5.4.3.25.3. The adverse findings uniquely attributed to Dakar were minimal, with the biggest concern arising due to the fact that a limited array of hotel options were submitted to the BAC for their review. The BAC was consequently not afforded the opportunity to make informed comparisons when evaluating the given limited number of hotel options. However, it was noted that the findings set out in report section 2 dealing with the general findings that the procurement process and procedures for the awarding of the Dakar hotel accommodation contract, exhibited similar weaknesses to the other contracts reviewed as detailed in the general findings. It appears that the general findings set out below applied to all the contracts within our sample, except the contract entered into for the accommodation in Accra, where no adverse findings or significant deficiencies were highlighted by our investigation;

5.4.3.25.4. Table 6 below, sets out the benchmarking exercise submitted to the BAC for Dakar.

Table 6 - Cost comparison (destination - Dakar)				
	King Fahd Palace	Novotel Dakar	Pullman Hotel	Terrou-Bi Beach Resort
Anticipated rooms per annnum	12 322	12 322	12 322	12 322
Rate per room per night	*57 000*	58 000	58 000	85 000
Hold over charge	-	-	-	-
Total cost - XOF per annum *1 XOF = R0.023 (03/11/2016)*	702 354 000	714 676 000	714 676 000	1 047 370 000
Total cost - Rand per annum	16 154 142	16 437 548	16 437 548	24 089 510
Total cost - Rand two-year contract	32 308 284	32 875 096	32 875 096	48 179 020

5.4.3.25.5. Once again the main risk identified relates to the limited array of proposed hotel options that were evaluated and presented to the BAC. One of the options, Terrou-Bi Beach Resort, is a very exclusive 5-star hotel that at the onset would be too costly an option for SAA. It appears that this hotel may have been included in the array of hotels merely to complete the minimum requirement set out in the SCM that at least four different hotel options need to be evaluated in order for the BAC to accept the submission made to them. It is imperative that a wider range of hotels complying with the minimum specifications (and more importantly within the appropriate anticipated price bracket) in accordance with the Regulating Agreement, are considered by the BAC in order to make an informed decision in this regard.

5.4.3.26. Accra

5.4.3.26.1. Accra, as in the case of Dakar, is used as a layover destination for SAA flights to Washington DC in the USA. Due to the high frequency of flights routed through Ghana to the USA, the hotel accommodation and ground transportation expenditure for Accra represents the highest expenditure for FY 2015/16 in respect of regional destinations for SAA.

5.4.3.26.2. Accra accounted for approximately R25.8 million in hotel and transport costs for that same period;

5.4.3.26.3. Currently, the hotel accommodation service provider in Accra is the Golden Tulip and the contract has been awarded to this hotel to conclude on 31 July 2017. Based on our review of the procurement processes and policies and their application in the case of the awarding of the contract to the Golden Tulip, this destination reflected the best compliance with no adverse findings. All aspects of the Accra contract were handled professionally and in accordance with expectations. A wide array of hotels were inspected and submitted as part of the proposal to the BAC. The BAC was provided with information well in advance to provide adequate time for assessment and deliberation. In addition to this, the transport agreements in place were renegotiated in order to obtain economies of scale as well as to ensure that pricing best reflected the new requirements of SAA;

5.4.3.26.4. No adverse findings or weaknesses in the procurement process could be identified in our review of the manner in which the contract was awarded. Consequently, the general findings set out in report section 2 below did not apply to the hotel contract entered into with the Golden Tulip;

5.4.3.26.5. Table 7 below illustrates the benchmarking and costs analysis related to Accra, which were presented to the BAC.

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Table 7 - Cost comparison (destination - Accra)						
	Golden Tulip	La Palm Beach	African Regent	Movenpick	Labadi Beach Hotel	Kempinski
Anticipated rooms per annum	16 571	16 571	16 571	16 571	16 571	16 571
Rate per room per night	152	160	210	210	227	250
Hold over charge						
Total cost - USD per annum *1USD = R13.45 (03/11/2016)*	2 518 792	2 651 360	3 479 910	3 479 910	3 761 617	4 142 750
Total cost - Rand per annum	33 877 752	35 660 792	46 804 790	46 804 790	50 593 749	55 719 988
Total cost - Rand two-year contract	67 755 505	71 321 584	93 609 579	93 609 579	101 187 497	111 439 975

5.4.3.27. Timing of contract negotiation

5.4.3.27.1. The most significant concern relates to the timing of the submission of relevant documentation to the BAC for their assessment and evaluation as part of the due procurement process. A common occurrence relating to the awarding of the procurement contracts was the fact that the BAC were only provided with a submission within the last month of the then current contract. This meant that the BAC did not have sufficient time to make an informed decision. Should the BAC require any further investigation or clarification to be carried out, there is insufficient time to do so;

5.4.3.27.2. The length of time taken for the entire submission and approval process within the procurement cycle to run its course, could lead to SAA being in a position that no valid contract for hotel accommodation and /or ground transportation is maintained with any given service provider. This in turn could result in SAA not having a valid and binding contract in respect of accommodation as required for the flight deck and cabin crew;

5.4.3.27.3. Due to the lack of time remaining under the given contracts (as reviewed in our sample), SAA is placed under undue pressure and in a much weaker negotiating position, leaving SAA unable to make demands on hotels, negotiate better margins or discounts, or search for more affordable or

equitable hotel options. This weak position can be directly correlated to the higher prices charged to SAA when first negotiating or attempting to re-negotiate the awarding of any given contract;

5.4.3.27.4. It is recommended that all submissions to the BAC be made well in advance of the expiration of an existing contract or commencement of a contract with a new service provider and that procurement Department implement a contract management system whereby contracts are flagged for renewal to allow for the lengthy procurement process to be adequately followed and ensure that all regulations are complied with;

5.4.3.27.5. The BAC should reprimand and follow disciplinary proceedings (where considered appropriate) against employees who make submissions to the BAC in a tardy manner, as these late submissions directly result in increased costs being incurred by SAA;

5.4.3.27.6. The result of this weak negotiation stance and an insufficient period of time to renegotiate contracts were evidenced recently when assessing an extension for accommodation at the Westin Grand Hotel in New York City. On 31 October 2014, the GSM requested the CFO to approve additional spend at the Westin Grand Hotel as the prevailing contract at that time was nearing its end without being renegotiated. Due to the extended timeframe taken for SAA to select a new proposed hotel for both the flight deck and cabin crew in New York, the prevailing contract at that time with the Westin Grand Hotel had to be extended. The hotel, however, informed SAA at the time that it would not be extending the contract on the same terms of US$244 per room per night, but would be increasing the price to US$339 per room per night.

This represented an almost 40% increase in the rack rate for a duration of three months, while contracts were officially renegotiated. The Westin Grand Hotel explained that the increased rate was necessitated due to the fact that the extension period represented a timeframe when demand for that hotel was at its highest. This additional spend was estimated at approximately R732,000 for the duration of the 3 months when inflated room rates were paid to the Westin Grand Hotel to make sure that the flight deck crew continued to be accommodated in New York City.

5.4.3.28. Extent of procedural compliance when re-negotiating and re-awarding contracts

5.4.3.28.1. Another concern for the board (and the BAC) involves the process followed when renewing contracts. It is noted that, in general, the procurement process is comprehensive; however, far less comprehensive procedures are followed when contracts are nearing their expiration date, when additional budget is requested from the BAC, to approve contract extensions or renewals;

5.4.3.28.2. It appears that once a hotel is selected, the process of renegotiation appears to be a formality with no further checks performed or comparisons to other prospective service providers being made. It is our recommendation that SAA's contracts requiring to be renewed or extended for a period of longer than a year should be subject to the same policy and processes as followed when initially awarding any given contract to a service provider. This will ensure that the BAC appropriately approves and awards new contracts that comply with the current cost compression strategies and budget of SAA.

5.4.3.29. Simultaneous awarding of ground transportation contracts

5.4.3.29.1. Although there is a comprehensive procurement policy that ought to be followed when appointing hotel accommodation service providers, little regard appears to be given to the ground transportation contracts that should be awarded to run concurrently and for the duration of any given hotel accommodation contract. It appears that the transport contracts (in general) have not been negotiated or awarded to run concurrently with the hotel contracts. The current spend on ground transportation (FY 2015/16) amounts to approximately R41.9 million and comprises 17% of the total hotel accommodation and ground transportation expense reported for that period. This significant expense could possibly be reduced if SAA were to negotiate contracts in a timely manner and from reputed and adequately vetted third party service providers;

5.4.3.29.2. It is imperative that the BAC ensures that ground transportation contracts are scrutinised in accordance with appropriate procurement policies and procedures, as it appears to be a risk area that could be abused by transportation service providers. A detailed review is yet to be carried out on the local Johannesburg ground transportation contract with Mudziwa Travel, as there is a concern that this area of operations could be open to abuse by service providers.

5.4.3.30. Outsourced service provider contracted to negotiate room prices on behalf of SAA

5.4.3.30.1. A further concern regarding the negotiation of hotel accommodation contracts has been identified in our review of the procurement process (for the sample of contracts) in that SAA currently outsources the

physical negotiation of room rates with the various prospective hotel accommodation service providers. This function has thus been outsourced to an American contractor called Hotel Connections;

5.4.3.30.2. The level of negotiation carried out by Hotel Connections has been brought into question due to the fact that in certain instances, online booking platforms available to the general public have provided similar rates to those negotiated by Hotel Connections. It appears that out of the five contracts reviewed, only one hotel out of a selection of 5 or 6 is ever negotiated to a reduced rate per room. The efficacy of their services and value proposition to SAA should be reviewed in more detail to ensure that the best interests of SAA is maintained at all times. A few hotels have, however, reflected large discounts resulting from the negotiation process, as well as negotiating lower or no holdover fees;

5.4.3.30.3. It appears that the mandate and terms of engagement with Hotel Connections was provided and approved by the BAC on the 23 March 2012 at no cost to SAA in order to unlock potential savings. The concern in this regard is due to the fact that SAA appears to incur no liability to Hotel Connections, as they do not require a fee from SAA to carry out this service on SAA's behalf. It must thus be questioned whether in the negotiations for crew hotel accommodation the best interests of SAA are being put forward by Hotel Connections. This conflict of interest could result in Hotel Connections only engaging with those hotels that provide the greatest benefit to them with little regard to the cost compression required by SAA and may explain the concerns raised in this report

regarding the negotiations undertaken in this regard.

5.4.3.30.4. This may be a further risk for SAA, if Hotel Connections are earning some form of kickback or rebate from prospective hotels if they only ever present certain hotels at cheaper rates. These negotiations are imperative to SAA obtaining the best deal and a review should be carried out regarding the adequacy of the negotiation process carried out by Hotel Connections on behalf of SAA.

5.4.3.31. Excessive list of perks required by the flight deck and cabin crew arising from the Regulating Agreement and union requirements

5.4.3.31.1. Numerous onerous requirements are placed on hotels when negotiating the room rates; inter alia SAA staff are offered free upgrades, preferential separate dedicated check in services, 24/7 ability to check in, rooms must be held over for use by the crew and the fact that the flight deck and cabin crews' family members are permitted to also travel to the same hotels on vacation at the reduced SAA negotiated rates (with no apparent limit to the frequency with which family and staff can travel and use this perk at any given hotel);

5.4.3.31.2. These upgrades, other services and perks specifically offered to SAA staff and their families will inevitably be factored into the price per room when prospective service providers are negotiating the best rate they can offer SAA at the time that contracts are awarded for hotel accommodation. SAA should consider that only the essential services that are absolutely required by SAA flight deck and cabin crew are included in SAA's RFP when setting out the requirements to be considered by prospective service providers.

5.4.3.31.3. This should reduce the additional pricing points that will be factored in by the prospective hotels when providing SAA with a rate per room for crew accommodation. This will however, require that SAA management revise the Regulating Agreement and renegotiate the minimum requirements expected by both the flight deck and cabin crew (and indirectly their families);

5.4.3.31.4. It is worth noting that these perks are also offered to former spouses and widow/ers of the flight deck crew and is further exacerbated by the fact that all SAA staff members are afforded the same perks when staying at hotels across the globe that have been awarded contracts by SAA in respect of hotel accommodation for flight deck and cabin crew. It is presumed that any prospective service provider will factor this consideration into their pricing structure when negotiating with SAA, knowing that there is effectively an 'unlimited' requirement to accommodate SAA staff when they are traveling for private or leisure purposes;

5.4.3.31.5. In our review of the supporting documentation for the sample of contracts analysed, we identified a complaint made by one of the hotels that the original contract entered into between the hotel and SAA stated that 'several' upgrade requests were anticipated *per month*. In reality, the hotel manager noted that SAA staff were abusing this privilege and that the hotel was forced to offer several upgrades *per day*, often as a result of the flight deck and cabin crew bringing their families on vacation at the time concerned. This sense of entitlement is not good for SAA's reputation within the market and should be addressed with the staff concerned to avoid further 'abuse of the system' by flight deck and cabin crew.

5.4.3.32. Inappropriate selection of prospective hotel service providers presented to the BAC

5.4.3.32.1. It is further noted that the hotels presented to the BAC are selected by a delegation of SAA employees representing the staff who will ultimately be residing in the accommodation provided by the hotels successfully awarded the hotel accommodation contracts. This process of hotel selection does not appear to be subject to any form of scrutiny or oversight by an independent party but rather made by employees with a vested interest in the outcome of the process;

5.4.3.32.2. It was noted in most cases of our sample investigation that the proposed hotels were either exorbitantly expensive (in the luxury 5-star category) or did not meet the minimum requirements criteria as set out in the Regulating Agreement or union agreements (in the case of much more affordable 2-star or 3-star category hotels). It appears that this scenario could be intentionally 'engineered' by the delegation representing the flight deck and cabin crew to ensure that their preferred hotel becomes the obvious choice when compared to an ill-fitted array of competitor hotels. The BAC is invariably left with no option other than to award the hotel accommodation contract to the hotel preferred by the flight deck and cabin crew, as set out in the submissions to the BAC. The contracts are consequently awarded to the very same hotels preferred by the employees who proposed the given hotel in the first instance, and those same employees will benefit from residing in a hotel that is possibly more expensive for SAA than other comparable establishments with accommodation of similar standards, but where these competitor

service providers may have been excluded in the BAC submission;

5.4.3.32.3. At present it appears that the array of hotels in the BAC submissions, include competitor establishments that are either too costly or represent more affordable options that do not meet the minimum criteria. In this regard, it is recommended that before any process of hotel inspection is embarked upon, that a resident country manager (general manager) be consulted to carry out a vetting process to ensure that only hotels that meet the required star grading, with all the reasonably determined amenities, room specifications and other criteria, are considered for presentation to the BAC. This allows the resident country manager to give guidance on the hotels selected so that should certain hotels be too expensive or not meet the minimum standards, these service providers can then be replaced with other suitable hotels in the area. This from of 'pre-inspection' will result in lower costs for SAA, as all the proposed hotels to be inspected by the delegation should then be of a similar standard (within a presumed similar price bracket) and this will facilitate more robust negotiations when competitor hotels attempt to secure SAA's patronage.

5.4.3.33. Proximity of proposed hotel service providers to the respective destinations' airports

5.4.3.33.1. The policy of including a resident country manager pre-inspection and recommendations will also assist with reducing costs for SAA when evaluating the proximity of proposed hotel service providers to any given destination's airport. Currently, flight deck and cabin crew appear to be selective as to the preferred location of the proposed hotels with

selections that are based within the city centre and close to major tourist attractions (in the case of the major international destinations), while the flight deck and cabin crew for regional destinations (in the case of African destinations) appear to prefer to stay outside of the city centre and closer to the airport (purportedly due to perceived safety concerns within the African cities);

5.4.3.33.2. Hotels based closer to the airport present a number of benefits for SAA. Due to their proximity to the airports, they require shorter transfer time and costs (reducing the overall ground transportation expense for SAA). In addition, these hotels, while maintaining the appropriate service levels required by the Regulating Agreement and requirements of the unions, have proven to be significantly cheaper per room per night. Furthermore, the location of these hotels in closer proximity to the airports are generally further away from tourist attractions, distractions and any temptation for flight deck and cabin crew to jeopardise their allotted or prescribed mandatory rest periods;

5.4.3.33.3. We therefore recommend that forthwith, the procurement policy be amended to require that an independent party ensures that the array of hotels to be inspected by the staff delegation (and proposed to the BAC) includes at least one hotel that is located in a safe and secure area in closer proximity to the respective countries' airports. This will allow the BAC to effectively evaluate and compare the various hotels and make an informed decision regarding these hotels without outright excluding or rejecting the more affordable hotel accommodation that may not necessarily be situated in the city centres.

5.4.3.34. Numerous prospective service providers

5.4.3.34.1. During our review of the sample of contracts, it was noted that SAA does not appear to take advantage of the economies of scale as there are numerous prospective service providers that are considered in any given BAC submission and it very seldom occurs that the same hotel chain is awarded multiple contracts in different regions or locations. It is highly likely that SAA could benefit from a centralised procurement process, whereby a negotiation is entered into with a chain of hotels or specific appropriate hotel group that could accommodate SAA staff regardless of ultimate destination. SAA would in all likelihood be able to negotiate a far better rate per room if they team up with a specific hotel chain to accommodate their staff across the globe (as far as practicable).

5.4.3.35. Delegation sent to review prospective service providers

5.4.3.35.1. During the course of our investigation, it has been brought to our attention that a significant sized delegation is responsible for visiting the various prospective hotels presented to the BAC. It seemed peculiar that in many instances, the delegation do not physically spend a night at the prospective hotels but rather stay at a single hotel, as included in the BAC submission, for numerous days' stay. The delegation purportedly then carry out site visits to the other hotels included in the BAC submission. It appears that certain hotels would then be given undue preference over others, as the delegation did not actually sleep in all the hotels proposed as prospective service providers; and

5.4.3.35.2. It is difficult to determine whether an accurate reflection of a hotel can be ascertained if the hotel in question is merely inspected without actually

experiencing the overnight service offering of the given hotel. It is our recommendation that any hotel that has been proposed as a prospective service provider, should be physically resided at by the delegation for a night, to ensure that accurate comparisons can be made between the proposed hotels. It is also important to ensure that luxury 5-star hotels that would ultimately be excluded from the choices due to price should not remain in the array of hotels to be assessed by the delegation.

5.4.3.36. <u>Compliance with PFMA, SCM policies and the Constitution while adhering to the Regulating Agreement and Cabin Crew Hotel Selection Policy</u>

5.4.3.36.1. The awarding of hotel contracts by SAA falls within the ambit of SAA's procurement Department or GSM. The GSM is governed by the SCM of SAA for all its dealings with suppliers (whether local or foreign). This policy, read in conjunction with the Public Finance Management Act No. 1 of 1999 and the Constitution, outlines the manner in which all prospective and duly appointed service providers are evaluated and correspondingly awarded contacts with SAA.

5.4.3.36.2. The SCM, inter alia, outlines the following:

5.4.3.36.2.1. "*3.1.1 SAA is committed to applying relevant legislative and regulatory requirements as they pertain to SCM.*"

5.4.3.36.3. The legislative requirements as mentioned above pertain to section 51 of the PFMA as follows:

5.4.3.36.3.1. "*51. General responsibilities of accounting authorities. — (1) An accounting authority for a public entity—*

5.4.3.36.3.2. *(a) must ensure that that public entity has and maintains—*

5.4.3.36.3.3. *(i) effective, efficient and transparent systems of financial and risk management and internal control;*

5.4.3.36.3.4. *(ii) a system of internal audit under the control and direction of an audit committee complying with and operating in accordance with regulations and instructions prescribed in terms of sections 76 and 77;*

5.4.3.36.3.5. *(iii) an appropriate procurement and provisioning system, which is fair, equitable, transparent, competitive and cost-effective; (underlining for emphasis); and*

5.4.3.36.3.6. *(iv) a system for properly evaluating all major capital projects prior to a final decision on the project.* "

5.4.3.36.4. Further to the above requirements, special mention is made within the SCM with regard to the Constitution as follows (underlining for emphasis):

5.4.3.36.4.1. "*3.2.1 SAA shall apply section 217 of the Constitution of the Republic of South Africa, (Act No 108 of 1996, as amended) by contracting for goods and services in accordance with a system which is fair, equitable, transparent, competitive and cost effective*."

5.4.3.36.5. These constitutional requirements are the basis for the objectives set out in the SCM, with particular reference thereof made in section 4.4.1;

5.4.3.36.6. During our investigation, it was noted that in the selection process followed by the GSM and the decisions taken by the BAC, that it appears that the BAC have circumvented the above legislation in favour of the Regulating Agreement entered into with SAAPA and the Cabin Crew Hotel Selection Policy. These agreements/policies have made specific provision for the representatives of SAAPA and each of the unions representing cabin crew to all propose three preferred hotel accommodation service providers (in order of preference) from a list of service providers originally selected by these same CFST members. The practical application and the method of hotel selection as well as the stipulations of the minimum standards and requirements for any hotel to be considered for use as a slipping point for flight deck crew and cabin crew are set out in the two agreements and described in more detail below.

5.4.3.36.7. "Slipping" is defined in the Regulating Agreement as, "*a break between flight duty periods away from crew base for the purpose of rest and to accommodate airline schedules*."

5.4.3.36.8. In terms of the Regulating Agreement, section 10 states the following (underlining for emphasis):

5.4.3.36.8.1. "*10.2 Rest Facilities at Slipping Points*

5.4.3.36.8.2. *10.2.7 Hotels used shall meet the classification standards equivalent to a South African four-star hotel as a minimum, if such accommodation is practically available.*

5.4.3.36.8.3. 10.3 Procedure for Selection of Crew Hotels

5.4.3.36.8.4. 10.3.1 The local Company Manager will, where possible, provide a list of potential crew hotels. The Association's hotel committee will then investigate these, and any other potential crew hotels, using the hotel selection criteria.

5.4.3.36.8.5. 10.3.2 The hotel committee will report to the Association's Executive Committee who will submit their recommendations in the form of a list of at least 3 hotels in order of preference to management.

5.4.3.36.8.6. *10.3.3 The Company will then have the final choice of hotel from the list submitted by the Association, taking the Associations' preference into account.*"

5.4.3.36.9. In terms of the Cabin Crew Hotel Selection Policy 001, paragraph 4.14 states (underlining for emphasis):

5.4.3.36.9.1. "*On completion of every hotel inspection, it is mandatory for every stakeholder representative to recommend a minimum of three hotels and submit a report detailing the reasons for the recommendations as well as the reasons for not recommending any hotels inspected."*

5.4.3.36.10. Furthermore, in terms of the Cabin Crew Hotel Selection Policy 001, paragraph 4.16 states (underlining for emphasis):

5.4.3.36.10.1. "*All hotel benefits and entitlements negotiated and paid for by SAA will be extended equally to both flight deck and cabin crew*."

5.4.3.36.11. In order to assess the impact of section 10.3 of the Regulating Agreement and paragraph 4.14 of the Cabin Crew Hotel Selection Policy as set out above, a detailed understanding of the process in awarding of hotels is required. As stated in the background information for this section of the report, upon return of the RFP from the hotels, the CFST (which includes a member of SAAPA and representatives of each cabin crew union) are sent to inspect a short list of the prospective hotels. All parties then submit their preferred selection of hotel to the project leader.

5.4.3.36.12. The project leader takes these recommendations into account and a consolidated submission is presented to the BAC for their consideration;

5.4.3.36.13. Based on this understanding, it is clear that section 10.3 of the Regulating Agreement and paragraph 4.14 of the Cabin Crew Hotel Selection Policy have placed the flight deck crew and cabin crew in a position of authority when submitting their final selection of preferred prospective hotels to SAA's management team (represented by the BAC). The flight deck crew and cabin crew have essentially been given the power to source hotels that do not comply with the regulations as set out in the PFMA, SCM and the Constitution, i.e. that may possibly not be based on a principle and system which is fair,

equitable, transparent, competitive and cost effective;

5.4.3.36.14. This power stems from the fact that SAA are required to select one of three hotels preferred and proposed by the CFST, regardless of affordability to SAA, location or quality of the hotel. This power appears to have been wielded by SAAPA and the cabin crew unions on numerous occasions, as evidenced in the BAC submissions that were reviewed as part of our sample of contracts selected for review;

5.4.3.36.15. The first instance noted, was the selection of the Grand Hyatt Hotel in New York ("Grand Hyatt") (as per the BAC submission dated 26 August 2011). In this submission, it was noted that the flight deck crew had elected to terminate the prevailing hotel contract entered into at that time with the Radisson Hotel ("Radisson"). The flight deck crew requested to move from the Radisson to the Grand Hyatt, which was more expensive. The BAC questioned this decision and Mr W Smith (Flight Operation Business Manager) raised his concerns at that time;

5.4.3.36.16. SAAPA stated that the reason for the move from the Radisson to the Grand Hyatt was that the Radisson was no longer suitable for the flight deck crew, as it no longer held a four-star grading and was in fact a three and a half star establishment. This appears to be an abuse of the power facilitated through the application of the Regulating Agreement requirements as stated above, which states that a four star equivalent (in terms of the grading council of South Africa) hotel be used. In order to validate the opinion of SAAPA in this regard, a detailed inspection should have been

required to determine if the Radisson was in fact no longer a South African four star hotel equivalent;

5.4.3.36.17. The Hotel Act contains detailed listings of the requirements to be graded as a four-star hotel, covering all operational areas of a hotel and this Act is the ultimate list of parameters that are required to be considered by SAA when determining a prospective hotel service provider's suitability. The GSM has currently deferred this decision making process and has relied upon the decisions of foreign grading council's indications of hotel grading, to guide its decision making process. As a direct consequence, the representatives of SAAPA were able to dictate the prospective hotel selection based on foreign ratings agencies' star grading of hotels and not necessarily taking into account the current legislation in South Africa;

5.4.3.36.18. Should the suitability of any hotel be questioned (by either SAA, SAAPA or cabin crew unions), it is imperative that a detailed study be performed on the hotel to determine its star rating in terms of the considerations set out in the Hotel Act, with documented proof being provided to the board, as to the prospective hotels' suitability for use by the flight deck and cabin crews;

5.4.3.36.19. No such proof was provided to the BAC in this regard, thus invalidating the SAAPA claim as to the suitability of the Radisson. However, due to the powers granted to SAAPA through the application of the Regulating Agreement, SAAPA refused to include the Radisson as a possible prospective service provider. The direct consequence of the Radisson being omitted from prospective selection of hotels presented to the BAC meant that the BAC had no option but to award the contract to the

Grand Hyatt, as one of SAAPA's preferred hotels, at a significantly higher cost for SAA;

5.4.3.36.20. The powers granted to SAAPA in this regard, as well as the use of foreign rating procedures, have allowed SAAPA to determine their own hotel choices regardless of any concerns raised by the BAC. In this particular instance, when the BAC was asked to approve the move to the Grand Hyatt, questions were raised by the BAC as to the cost effectiveness of this decision. In the request for authority to award the flight deck crew accommodation contract in New York to the Grand Hyatt, dated 26 August 2011, the following was noted:

5.4.3.36.20.1. *"A request was submitted on 19 August 2011 to the BAC to approve the contract with the Radisson Hotel for the cabin crew and to the Grand Hyatt Hotel for the flight deck crew – refer to Annexure A. However, the BAC refer back the request for final selection for the Grand Hyatt for Flight Deck Crew with the following reasons:*

5.4.3.36.20.2. *Renegotiate with Pilots as the Radisson rate was found to be less expensive in line with the cost saving structure of SAA.*

5.4.3.36.20.3. *Business should provide a motivation why the pilots had decided to move to a different hotel when the Radisson Hotel had previously accommodated them.*

5.4.3.36.20.4. *Transport costing per hotel should be shown in the hotel cost/quote*

structure as outlined in the submission tabled at this meeting.

5.4.3.36.21. The above concerns were addressed by William Rooken Smith (Flight Operation Business Manager) as follows:

Selection Criteria…

Renegotiate with Pilots as the Radisson rate was found to be less expensive

Whilst fully embracing the idea of cost saving, I need to point out that negotiations relating to conditions of service for SAA pilots are conducted between Employee Relations (ER) Department and the South African Airways Pilots' Association (SAAPA).

The fact that the Flight Deck Crew hotels are being procured outside the guidelines of the PFMA and SAA's Supply Chain Manual has been raised with the ER Department on numerous occasions. This has been a negotiations agenda item for at least 2 ½ years, and it has yet to be addressed. This undesirable situation will continue until this issue is formally addressed at negotiations.

Unilateral action by the Company on this issue will more likely trigger a dispute from SAAPA, and for that reason, legal advice on this issue is

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needed. During his tenure as GM Operations and acting CEO, Mr. Chris Smyth requested legal opinion on this issue from the former head of (sic) SAA's Legal Department. As far as I am aware, that opinion was never forthcoming.

Business should provide a motivation why the pilots had decided to move to a different hotel when the Radisson Hotel had previously accommodated them.

Sections 10.3.1 to 10.3.3 of the RA (highlighted above) illustrates that SAAPA has an effective veto right when it comes to the selection of hotels. It does not really matter to SAAPA what the Company thinks, because they have an entrenched right here in terms of the RA."

5.4.3.36.22. Consequently, it appears that SAA's reliance on foreign ratings and not the Hotel Act to determine the suitable grading of the Radisson and SAAPA's perceived unwillingness to negotiate on this matter, resulted in additional expenditure anticipated and as set out in the BAC submission documentation to amount to approximately R6.4 million over the duration of the proposed three-year contract. This information was corroborated in the request for authority to award crew accommodation in New York, included in documents submitted to the BAC, dated 22 July 2011. The narrative prepared by the GSM, presented to the BAC at that time, included an analysis titled, "Evaluation Process" which stated as follows:

5.4.3.36.22.1. "*The flight crew negotiations were unsuccessful due to the agreement that the Pilots' Association signed with SAA which states that all hotels for the flight deck crew should be four star hotels and currently the Radisson is a three and a half star. The company has opted for their first choice based on the fact that the Grand Hyatt is cheaper compared to the Sheraton Hotel after including the transport costs.*"

5.4.3.36.23. This apparent flouting of authority was again evidenced in respect of the awarding of the New York hotel accommodation contract for flight deck crew in October 2014. The BAC (and CFO) were requested to approve an additional spend in order to allow the flight deck crew to continue staying at the Grand Westin Hotel, their then prevailing hotel of choice and service provider whose contract was very near expiration date. This negotiation was started too late in order to effectively consider the alternative options that needed to be presented to the BAC in ordered for them to award a new hotel service provider contract in New York at that time. During this time, the Grand Hyatt Flushing was proposed as an alternative, as it represented a more affordable option for SAA at US$178 per room per night in comparison to the rate of US$339 per room per night being proposed by the Grand Westin at that point in time. The cost saving calculated at that time amounted to approximately R14 million over a two-year period for the flight deck crew alone;

5.4.3.36.24. This cheaper option was not, however, pursued due to the flight deck crew stating that the Grand Hyatt

Flushing hotel was not graded as a four-star hotel and the In-Flight Services Management stated that the surrounding area was untidy, offered limited choice of Western food options at restaurants in proximity to the hotel, was far from Manhattan and would cost the crew considerable taxi fares to get to Manhattan when they chose to do so;

5.4.3.36.25. It appears that as a consequence of the aforementioned factors, the hotel was never included in SAAPA's listing of alternative or preferred hotels. This continued to display SAAPA's mindset to disregard the recommendations of the GSM, i.e. that a more cost effective hotel choice in closer proximity to the airport should be sourced;

5.4.3.36.26. The document detailing the Decision Record, dated 30 January 2015, indicated that this hotel was inspected by the GSM and found to be equivalent to a South African four-star hotel (as per the requirements of the Regulating Agreement) and was noted as the preferred option of the GSM due to the anticipated savings on a per room basis and that savings would also be realised on transport costs for SAA due to the hotel's proximity to the airport. This recommendation was not heeded by the flight deck crew and resulted in additional spend by SAA, on the premise that the provisions of the Regulating Agreement would render the selection of the Grand Hyatt Flushing void/invalid;

5.4.3.36.27. It appears to be a common feature of the recommended hotels proposed by SAAPA, that hotels be excluded based on their current star rating. We recommend that the BAC ensure that the CFST inspect all hotels, regardless of the prospective hotel's star grading so that SAA management (and the BAC) can evaluate these proposed hotels' equivalent South African star

grading (as permitted by the Regulating Agreement). This will ensure that, regardless of the hotels location or official foreign star grading, that SAA receives the best value alternative when awarding these contracts, without a compromise on quality, and in accordance with the regulations of the PFMA, SCM and Constitution;

5.4.3.36.28. The calculations above have shown that SAA has incurred additional costs of approximately R20.4 million in New York for the flight deck crew alone. Taking into account the current cost compression strategy of SAA, it is imperative that the BAC as well as the GSM take note that the legislation as promulgated must take precedence over internal agreements or policies. It is imperative that the BAC have a detailed understanding of the Regulating Agreement (as currently enforced) to ensure that the decisions made in respect of awarding hotel contracts, while attempting to appease the requirements set out in the Regulating Agreement, do not compromise or result in SAA being non-compliant with the PFMA, SCM and Constitution.

5.4.3.36.29. Most notably, the BAC must also be made aware of their authority and responsibilities as prescribed to them within the SCM, which states in section 6.2.5.2 as follows:

5.4.3.36.29.1. "*The BAC performs, among other, the following main functions as contained in the BAC charter:*

5.4.3.36.29.2. *May override recommendations from the CFST provided that due motivation is provided.*"

5.4.3.36.30. This power effectively enables the BAC to evaluate the merits of recommendations presented to them

by the CFST and (if necessary) select and approve the most affordable hotel that meets the requirements as set out in the PFMA and SCM policies, regardless of being held ransom to having to make a choice between only the preferred service providers as presented by the CFST;

5.4.3.36.31. As discussed above, the selection of hotels in contradiction to the PFMA regulations was raised by Mr W. Smith (Flight Operation Business Manager) in 2011, where it was noted that the provisions of the Regulating Agreement have allowed SAAPA an effective veto right when it came to the selection of hotels. It was stated in his report to the BAC that, according to SAAPA, it does not matter what SAA thinks or requires in relation to hotel procurement and related costs, as SAAPA have an entrenched right in terms of the Regulating Agreement;

5.4.3.36.32. In Mr Smith's report, it was noted that the concerns regarding the Regulating Agreement's conflict with the PFMA has been a negotiations agenda item since 2009, yet no ground had been made nor had this significant concern been formally addressed in negotiations with the various unions. Mr. Smith was concerned that unilateral action by SAA would trigger a dispute from SAAPA at that time and he recommended that legal advice be obtained pertaining to this issue. It appears that no legal opinion was ever forthcoming at that time, however this is currently being pursued with senior legal counsel at ENS;

5.4.3.36.33. It is clear from our investigation set out above, that the Regulating Agreement (as currently enforced) contradicts the current legislation governing SAA. The non-compliance with PFMA and CM policies are currently causing SAA to suffer significant

losses on an ongoing basis each year. In addition, this deviation from the PFMA may be construed as financial misconduct on the part of the BAC, leading to legal proceedings, which may cause SAA further financial distress and reputational damage;

5.4.3.36.34. Until such time as the Regulating Agreement has been successfully renegotiated with SAAPA, it is imperative that SAA management, the GSM and the BAC, ensure that the PFMA and SCM regulations are adhered to and enforce their option in terms of section 6.2.5.2 of the SCM to override the recommendations of the CFST if they feel so justified.

5.4.3.37. Conclusion in respect of hotel accommodation contract awards

5.4.3.37.1. As set out in the report above, there appear to be numerous areas where SAA can improve on their existing protocols and procedures with regards to awarding hotel accommodation service providers and ground transportation for flight deck and cabin crew. Many of these anticipated cost savings are extremely hard to quantify as further analysis and review by SAA management is warranted to determine the extent that policies can be amended to take advantage of these cost compression initiatives. It is understood that a number of these recommendations included above hinge on the ability to re-negotiate the Regulating Agreement and requirements stipulated by the cabin crew unions, however certain cost saving initiatives require a simple change in mind-set and implementation when evaluating which hotels are included in the BAC submission for review by management;

5.4.3.37.2. At face value, based on the procedures performed on the sample of contracts selected from expenses incurred in FY 2015/16, we identified the following probable fruitless and wasteful expenditure in respect of hotel accommodation costs for flight deck and cabin crew over a two-year contract period:

5.4.3.37.3. <u>New York flight deck crew</u>

5.4.3.37.3.1. Approximately R14 million additional costs due to not selecting the Grand Hyatt Flushing Hotel;

5.4.3.37.3.2. Approximately R0.73 million additional costs due to the late re-negotiation of the flight deck crew contract with Westin Grand Hotel

5.4.3.37.4. <u>New York cabin crew</u>

5.4.3.37.4.1. Approximately R18.5 million additional costs due to not selecting the Grand Hyatt Flushing Hotel.

5.4.3.37.5. <u>Sao Paulo flight deck and cabin crew</u>

5.4.3.37.5.1. Approximately R1.9 million additional costs due to incorrect computation in BAC submission resulting in a more expensive than necessary hotel option being awarded contract.

5.4.3.37.6. The above costs total to **R35.1 million** over a two-year period. This is excluding any synergies or further cost savings that could be achieved as indicated above. It is further noted that we have only reviewed five contracts accounting for 51% of

the total spend on hotel accommodation in FY 2015/16 and therefore we presume that these issues permeate throughout this procurement cycle. It is consequently anticipated that further cost savings could be achieved by SAA, if this entire procurement process is reviewed in detail by SAA management.

5.4.3.38. Rates negotiated for accommodation of crew and their respective family members

5.4.3.38.1. It has been alleged, by Ms G. Matshego - Executive Manager, Alliances – Code Share: SAA, that she has recently been made aware of an instance in Kenya where the SAA crew and employees' airline rate for accommodation, is well in excess of the rates negotiated by other airlines that use the same hotel for their stop-overs in Nairobi;

5.4.3.38.2. An Accommodation Agreement ("the contract") was entered into between South African Airways SOC Limited ("SAA") and Eka Hotel. The contract was signed on behalf of SAA by A.W. Bayne (HOD Flight Operations); S. Pillay (HOD Inflight Services) and M. Nkalane (HOD Airport Operations) in late October 2015;

5.4.3.38.3. The signed contract is electronically date stamped as 13 February 2014 while the commencement date of the contract was 14 February 2015. The contract termination date is 28 February 2017 (i.e. 2-year contract). It appears that the contract was consequently 'negotiated' for some time before signing and it is not clear when the contracted to rate for SAA was implemented (reference is made to a Letter of Award granted to the Hotel on 15 February 2015), notwithstanding the final signature taking place 8 months after the effective date of the contract;

5.4.3.38.4. The contract sets out the terms and conditions on which the crew (flight deck and cabin crew) and employees of SAA and their respective accompanying family shall utilise the accommodation and services provided by the Eka Hotel. Annexure A to the contract largely sets out the stipulations of the accommodation inclusions, crew value proposition and the scope of purchase/service as detailed in the RFP for the SAA crew hotel accommodation;

5.4.3.38.5. The airline accommodation rate per night quoted on a room only basis, including all taxes, levies and service charges, as set out in Annexure A to the contract, is US$150 for a superior room per night. The normal rack rate for a superior room as defined in the contract was indicated as US$255/room/night, while the corporate rate was indicated as US$190/room/night;

5.4.3.38.6. Ms Matshego has indicated that while she was in Nairobi on business recently, it was brought to her attention that other airlines have negotiated better airline rates for their crew and employees. Consequently, SAA's competitors only pay in the region of US$90 per room per night. This fact was discussed by Ms Matshego with Mr P. Sekhamane, Head of the Global Operations Control Centre ("GOCC"). In the absence of having access to a competitors' contract, we are unable to validate whether the service offering and room type offered to competitors is identical to that of SAA, but it is assumed that the crew are awarded the same level of comfort and value propositions;

5.4.3.38.7. It has further been established that SAA are operating 11 frequencies to Nairobi per week and of the 11, four flights per week are night stopped in

Nairobi. This results in the crew requiring hotel accommodation;

5.4.3.38.8. SAA use four cabin crew and two cockpit crew on the aircraft ordinarily deployed to Nairobi (A319/A320), and on occasion SAA deploy a B737-800, manned by a crew comprising five cabin crew plus two cockpit crew;

5.4.3.39. The calculation referred to in Table 13 below, reflects the additional costs incurred by SAA when comparing SAA expense to the airline rate purportedly offered to other airlines (using a crew tallying six members):

Destination	Hotel	Number of overnight flights	Number of total crew members	Differential in airline rates	Excess costs vs competitor
Nairobi	Eka Hotel	208 per annum (4 per week)	6	USD 60 ($150 - $90)	USD 74 880
At an average exchange rate during 2015 of R12.75 : USD1 this converts to a financial loss of approximately R955 000.					

Above: Table 13: Additional accommodation costs as a result of disparity between airline accommodation rates negotiated per room per night

5.4.3.39.1. Ms Matshego has indicated that when she approached Mr A. Nyawara, the country manager in Kenya, to inquire regarding the differential in rates offered to various airlines, it was explained that the country manager does not have any control over the negotiating process and no input is sought from the country manager based in Kenya when SAA head office staff are in the process of finalising these commodity contracts. It was indicated that the head office staff sign off on the procurement contracts without necessarily obtaining an idea of market related rates from country managers in the field;

5.4.3.39.2. The above scenario is one example of what could easily be a worldwide phenomenon, when head office staff award accommodation contracts to their service partners in respect of crew, employee and their family members' accommodation. The saving calculation taking the current exchange rate indicates a saving of R1.185 million per annum;

5.4.3.39.3. Taking into account our estimations on the potential savings relating to contracts negotiated with the relevant Hotels and the fact that SAA flies to over 40 different destinations, the savings per contract should amount to the estimated R8 million per annum;

5.4.3.39.4. A further matter identified during our review of the contract, refers to the condition included in clause 19 to the contract facilitating the hotel inspections. Four single rooms have to be made available free of charge for two nights on a bed and breakfast basis. This relates to hotel inspections during the contract review process and ongoing inspection (site) visits. We will refer to the 'duty travel' issue later in our report, however it is worth noting that four different staff members, needing to visit the hotel for a duration of two nights, at numerous intervals within this two-year contract period, may be deemed excessive duty travel to carry out a single hotel inspection. Although the accommodation and breakfast would be offered complimentary in this case, there remains a loss of man hours to SAA, reduced productivity, disruption to those inspection staff members' routine responsibilities and additional flight and ground transportation costs incurred to visit the site;

5.4.3.39.5. It seems peculiar that the inspections, as part of the contract review, do not appear to entail any manner of determining whether the rate paid by SAA is

deemed appropriate within the market conditions and/or compared to rates offered to other airlines for the same or similar service offering, before the letter of award is issued to the commodity provider;

5.4.3.39.6. It should further be established whether SAA is appropriately determining the fringe benefit taxes that should be calculated on the benefit of hotel accommodation being negotiated and offered to staff and their families at reduced rates. This would only be relevant in the case of leisure travel carried out by the SAA crew, employees or their respective family members.

5.4.3.39.7. In addition to the above, it was brought to our attention that SAA staff regularly travel for business purposes to attend various conferences and seminars. It is not clear whether the extent of travel and number of individual employees allowed to travel in respect of these conferences is warranted. Supposedly each business unit budgets for this expense within their own Department, but it is alleged that far too many employees are allowed to travel and on too regular a basis, for purported business conferences. Management should carry out an investigation as to the necessity of this probable excessive business travel, as significant costs could be saved. It is not only the seminar costs, but also the hotel accommodation, daily subsistence allowances and lost productivity for SAA that will all accumulate to an unacceptable level of expense for SAA.

5.4.4. Aircraft leases

5.4.4.1. During our investigation into the allegation relating to the leased engines from SAA to Mango that were being leased at a reduced price, we found that this allegation was unfounded and in fact that SAA had negotiated a lease with Mango, where SAA was making a profit from the lease;

5.4.4.2. Due to SAA's Fleet Plan and within the approved Corporate Plan, SAA are phasing out their Boeing aircraft and replacing them with the Airbus aircraft.

This ensures a seamless transition for pilots flying the various Airbus aircraft. This further reduces costs of pilot training and maintenance costs of having to maintain only one large fleet as opposed to two rather smaller fleets;

5.4.4.3. A submission was made to the Board of Directors of SAA on 29 January 2016 regarding four current sub-leases of the 737-800's to Mango and regarding additional leases. SAA lease these aircraft from Macquarie and have in turn sub-leased these aircraft to Mango as they are excess aircraft to SAA;

5.4.4.4. These six leases are due to be terminated as their period has run their course. In terms of the agreements entered into between SAA and Macquarie, SAA have a number of return conditions and costs associated to them. The cost associated to each of the four aircraft is US$15 million per aircraft, totalling approximately US$90 million. At the current exchange rate of R15.83 to US$1 this would equate R1.425 billion cash outlay in 2017;

5.4.4.5. In addition to the return conditions, SAA has accumulated approximately US$62 million in maintenance reserves for the six aircraft, which will be utilised by the lessor and lost by SAA on returning to the aircraft to the lessor. This equates to R981 million at the current exchange rate;

5.4.4.6. Thus should SAA return these aircraft to Macquarie, the lessor, SAA will have to outlay R1.425 billion and lose R981 million in

maintenance reserves. The total cash outlay by SAA is R2.406 billion;

5.4.4.7. Mango would then have to go out on tender, and based on past experience within the market, all leased aircraft are leases which are from owners outside of South Africa, barring Safair which is a competitor to SAA, and leasing an aircraft from Safair would assist in reducing costs of the competitor making them more efficient in the domestic market;

5.4.4.8. Any new entrants (Local owners or lessors) into the South African market that own aircraft or could lease aircraft suitable for Mango or SAA would be at a greater cost than that which would apply out of leasing an aircraft from an offshore owner. This has been shown in the Cargo lease tenders that SAA advertised and assessed during 2015;

5.4.4.9. Our understanding is that SAA will require an additional six to eleven Airbuses and that the tender is due to be advertised in June 2016. We caution SAA regarding confining the tender to local suppliers only, as currently there are no local suppliers of Airbuses and any interest shown by a local supplier would be at a cost far greater than that of an overseas supplier, and leasing at the greater cost will cause SAA's operating costs to increase and place further pressure on the profitability of the airline;

5.4.4.10. With Mango now having to go out into the market, Mango would have to enter into new leases with the new lessor, and this could possibly be Macquarie, with new conditions, return conditions and would have to start contributing to the Maintenance Reserves fund for servicing from a zero base;

5.4.4.11. Taking into account the market value of the leases, Mango would incur additional charges for the maintenance reserves, return conditions as well as the configuration of the six aircraft to Mango's operating design. These additional payments could total in excess of US$100 million payable by Mango to the lessors. Using the current exchange rate, this would equate to R1.583 billion cash outlay by Mango over the period of the leases;

5.4.4.12. In addition, should SAA return the six aircraft, they will also trigger the penalty clauses in terms of the contractual return dates, as the SAA Technical Department (SAAT) will not be able to up-fit and return the aircraft timeously. These penalty costs are approximately US$3 million per aircraft making and at the current exchange rate will cost SAA an additional amount of R285 million for the six aircraft; and

5.4.4.13. SAA should assist Mango in entering into the six leases thus ensuring a direct saving to SAA of R2.406 billion and further to the SAA group of approximately R4 billion.

5.4.5. Maintenance / Warranty programme – simulator hardware maintenance paid to CAE

5.4.5.1. SAA currently owns an Airbus A320 and A340 simulator while it leases an A330 simulator from CAE;

5.4.5.2. SAA initially entered into a maintenance and warranty contract with CAE Inc. ("CAE") in respect of the maintenance of the Airbus simulators (hardware support programme), for the 2002 to 2007 timeframe (Phase I), and paid an amount of US$400,000 on an annual basis for the five year term with the total contract value amounting to US$2 million;

5.4.5.3. This contract was subsequently renewed and the extension to the CAE contract amounts to a further US$380,000 for another period of five years, from 2007 to 2012 (Phase II), with the total contract value amounting to US$1.9 million. During Phase II, consignment spares to the value of US$951,565 were paid for by SAA;

5.4.5.4. It is not clear from the information collated to date, as to the exact contractual arrangement and terms that were in place during the 2012 to 2014 timeframe, however there is a supplier invoice number 1302382, dated 6 February 2013, from CAE in respect of 'warranty extension on A320 and A340' amounting to US$270,400. In addition to this invoice, there appears to be a further invoice number 1302379, also dated 6 February 2013, in relation to the purchase of 'consignment spares, full complement spares and top-up spares' from CAE, amounting to US$702,749. The invoices are not

descriptive and do not break down any level of detail of the exact consignment spares, full complement spares or top-up spares that are held in the stores at SAA's premises in accordance with that purchase;

5.4.5.5. We are yet to establish the exact amounts physically paid to CAE in this regard and also establish the right of transfer of ownership in respect of the consignment spares. It is alleged that consignment spares need to be returned to CAE at the end of the respective contract term. This does not seem correct unless SAA are reimbursed for the value of the consignment spares returned to CAE as SAA have already paid in full for the opportunity to have certain spares freely available on site in the event that routine maintenance of simulator hardware is required;

5.4.5.6. SAA has subsequently agreed to a further three-year extension from 2014 to 2017 (Phase III), for the hardware maintenance and software warranties, at an annual amount of US$174,000. This total contract value therefore amounts to US$522,000. The consignment spares have been indicated to be purchased for an amount of US$1,427,347.50 during Phase III;

5.4.5.7. The concern has been raised that there is a considerable spend being incurred on hardware and software maintenance for the Airbus simulators on an annual basis when these spares and upgrades may have been accounted for elsewhere in the maintenance contracts entered into by SAA;

5.4.5.8. The Airbus simulators are currently leased from CAE and it is therefore expected that the software and hardware upgrades would be covered in the lease arrangements negotiated by SAA as they are obliged to return the simulators to the lessor at the end of the contract term. This however does not appear to be the case and SAA has an annual outlay of costs that will ultimately benefit the lessor (CAE);

5.4.5.9. The simulator maintenance manager, Mr Tshabalala, has determined that in excess of R20 million has been spent on these hardware and software maintenance programmes since 2002 while SAA has only received the benefit of approximately R10 million

worth of spares and maintenance services. In addition to this, SAA has also had to cover the costs of shipping and handling of the spares to SAA from international sources.

This expense appears to be for the benefit of keeping spares within the Department on SAA premises, however the consignment spares are required to be returned to CAE at the end of the contract term and therefore ownership does not in fact transfer to SAA for these related spares;

5.4.5.10. As it is SAA's intention to streamline the fleet to include Airbuses in the future, these regular maintenance contract renewals will be required for the foreseeable future to ensure that the simulators are maintained at the appropriate specifications and safety levels. This cost is anticipated at R7 million every three years when the warranty contracts are renewed but there is also no guarantee as to what CAE will charge SAA for these spares, etc. in the future. The current maintenance contracts do not appear to be aligned with the lease term related to the physical Airbus aircraft included in the fleet;

5.4.5.11. SAA staff are struggling to locate the original signed contracts, which would detail the specific terms and conditions of the spares and hardware maintenance that is afforded to SAA under the existing Phase III extension;

5.4.5.12. A request has been made for the GM of SAA Flight Operations to initiate an investigation into all contracts signed by Flight Operations to establish the risks associated with the contracts and provide appropriate intervention where needed. SAA legal has enlisted the assistance of Manong Attorneys Inc. to evaluate these contracts, but as yet we cannot confirm whether this specific contract is being addressed by SAA legal or Manong Attorneys Inc.

5.4.6. Simulator lease – A330-200 lease contract with CAE

5.4.6.1. In 2012, SAA entered into a 10-year operating lease agreement with CAE to lease an Airbus A330 simulator for part-time use by SAA;

5.4.6.2. The 10 year lease agreement does not currently align with the life-cycle of the actual fleet maintained by SAA and consequently the

lease agreement will in all likelihood need to be renegotiated or extended at the end of the current term. SAA will need to maintain Airbus simulators for as long as SAA has Airbus aircraft in their fleet;

5.4.6.3. It should be noted that SAA are purportedly the only airline in Africa that leases simulators as opposed to buying the equipment outright;

5.4.6.4. At the time that SAA entered into the lease arrangement, it would have cost approximately US$16 million (R161 million at that point in time) to purchase the simulator outright. Had SAA management decided to purchase the A330 simulator at that time, the capital outlay under such an arrangement would have included the upgrade and software maintenance required to maintain the simulator i.e. there would be no charge for the software upgrades that currently cost SAA on average R3 million per upgrade;

5.4.6.5. SAA have agreed to pay a cumulative amount of R79 million to lease this specific simulator for 50% of its available hours over 10 years. SAA has the right to use the A330 simulator for 35 000 hours over the 10 year contract period. By deduction, this would indicate that 100% of the capacity of the A330 simulator would be valued at R158 million;

5.4.6.6. It is further noted that the contract with CAE sets out that SAA are responsible for the full maintenance and operational costs relating to the A330 simulator:

5.4.6.6.1. Providing the facility for equipment to be housed and 2 briefing rooms for use by CAE, including providing 'a Training Centre in good, clean, tenantable, substantial and proper repair and condition to the reasonable satisfaction of the CAE';

5.4.6.6.2. SAA carries all the costs and facility related taxes and utilities, including but not limited to 'electricity, heating, ventilation' required to operate the simulator; and

5.4.6.6.3. SAA carries the payroll expense related to staff and security personnel who (as stipulated in the contract) must ensure that the simulator is available for use for 20 hours per day.

5.4.6.7. It has been indicated by Mr Tshabalala, however not yet independently confirmed, that these day to day operational expenses amount to approximately R400,000 per month (R4.8 million per annum);

5.4.6.8. CAE is however afforded the benefit of utilising this fully maintained simulator for 50% of its available hours for its own revenue generating purposes;

5.4.6.9. With regards to the spares required to maintain the simulators in a good working order, clause 3.1.22 to the contract defines *Spares* as 'those spares, special tools and test equipment, if any, provided for use on the Equipment, more fully identified hereto in Appendix B'. Appendix B to the contract further states that the recommended Spare parts list includes; 'Recommended Spares list to be agreed upon between Customer and CAE during program cycle'. It is not clear which Spares have been agreed upon between SAA and CAE as being included in the lease agreement, and it appears that this position may currently be abused by CAE in that they appear to be charging SAA for all spares used on the Equipment. The spares and software upgrades are costly for SAA, and CAE are getting the full benefit of using the simulators for 50% of its available hours;

5.4.6.10. In addition to the above costs, SAA is required to take out all risk insurance on the Equipment, including Aviation Liability Insurance cover of at least US$500 million and R200 million in respect of non-Aviation Liability ('premises liability) that has to be written through a company reasonably acceptable to CAE (refer Clause 17.2 to the lease contract). We have not yet established the costs attributable to this insurance expense carried by SAA for the part benefit of CAE;

5.4.6.11. At the onset of this lease arrangement, SAA had the option of purchasing a once off maintenance contract for US$700,000 (approximately R7 million at the then prevailing exchange rate),

which would have covered the required software upgrades over the duration of the lease agreement (approximately 18 software upgrades);

5.4.6.12. SAA did not take up this option but rather agreed to purchase each software upgrade as and when deemed necessary (at least once every two years);

5.4.6.13. One of the first of these software upgrades allegedly relates to the 'R&P approach' upgrade. This relates to a safer and fuel saving airport approach software that was installed in the A330 simulator. The cost for this single upgrade paid by SAA to CAE was US$335,000 (approximately R5.025 million at the current exchange rate);

5.4.6.14. Further ad hoc software upgrades are requested by the pilots (e.g. the technical FCPC upgrade), which are then required to be installed at further costs to SAA as opposed to being included in the software package expenses;

5.4.6.15. It is anticipated that the software upgrades are going to cost SAA in the region of US$200,000 (R3 million at the current exchange rate) per upgrade and therefore anticipated charges for maintenance on this simulator would amount to R54 million. This is in contrast to the once off package deal for maintenance of US$700,000 (or approximately R10.5 million at the current exchange rate) for all the upgrades. IF SAA had purchased the simulators outright, these software package upgrades would have been carried out for free during the first 10 years of its life cycle;

5.4.6.16. The total anticipated costs for SAA to lease 50% of the time available in the A330 simulator from CAE is therefore well in excess of the costs that would have been incurred had SAA purchased the simulator outright. It does not appear that SAA has prepared a return on investment or cost analysis determination between the various options available to SAA in order to originally make this buy or lease decision;

5.4.6.17. The lease agreement appears to prejudice SAA as if SAA could arrange financing to purchase an A330 simulator for R161 million,

SAA would have the outright (100%) ownership and would be able to generate external income from renting out available capacity not utilised by the SAA pilots;

5.4.6.18. It has been intimated that SAA is in the process of purchasing five new A330 aircraft and this means that SAA would have to extend the lease on the simulator even though this contract appears to be biased towards CAE, with serious cost implications for SAA;

5.4.6.19. This issue appears to be exacerbated by the fact that during June 2016 it appears that SAA is currently negotiating to offer two more berths for new simulators to be leased from CAE. If these new lease agreements are set up in the same manner with similar terms and conditions to the existing lease, then SAA will compound the current losses incurred on leasing these simulators as opposed to purchasing the simulators outright and using available capacity to generate revenues for SAA;

5.4.6.20. It is important for SAA to carry out proper due diligence in respect of building the business case for leasing new simulators, as one issue currently identified by Mr Tshabalala, as the simulator maintenance manager, is that there is currently spare capacity relating to the existing simulators so it is confusing as to why SAA would want to house more Airbus simulators;

5.4.6.21. A request has been made for the GM of SAA Flight Operations to initiate an investigation into all contracts signed by Flight Operations to establish the risks associated with the contracts and provide appropriate intervention where needed. SAA legal has enlisted the assistance of Manong Attorneys Inc. to evaluate these contracts, but as conveyed above, we cannot confirm whether this specific contract is being addressed by SAA legal or Manong Attorneys Inc.

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5.4.7. FDM Flightscape Inc. – Flight data monitoring software system contract with CAE

5.4.7.1. In August 2011, SAA issued a tender for the provision of a flight data monitoring software system.;

5.4.7.2. The BAC approved the award to an entity within the CAE Inc. group (FDM Flightscape Inc.) on 16 March 2012;

5.4.7.3. The contract has been awarded for the duration five years and carries an estimated cost of approximately R3 million comprising a once off payment of US$179,901 and five annual payments of US$36,880. There is no option to renew the contract at the expiry of the initial period;

5.4.7.4. The software included in this contract was to be utilised by SAA in analysing abnormal flight events as well as being an important analytical flight safety education tool;

5.4.7.5. The nature of the contract is the delivery of software with integrated software support by FDM Flightscape Inc;

5.4.7.6. SAA staff are currently trying to locate the original signed contract to validate the terms and conditions and ascertain the exact services provided in accordance with this contract. There appears to be a contract with all the figures blacked out (currently requested from SAA procurement Department) so it is difficult to ascertain the financial implications and fully understand the terms of the contract;

5.4.7.7. It is alleged that there is no business case available for review regarding the initial awarding of the contract and that it is not clear to what extent this contract would cover the servicing and product maintenance and/or upgrades to the software supplied by CAE under this agreement;

5.4.7.8. A request has been made for the GM of SAA Flight Operations to initiate an investigation into all contracts signed by Flight Operations to establish the risks associated with the contracts and provide appropriate intervention where needed. SAA legal has enlisted the assistance of Manong Attorneys Inc. to evaluate these contracts,

but as yet we cannot confirm whether SAA legal or Manong Attorneys Inc. is addressing this specific contract.

5.4.8. FDM contract extension to incorporate PRAS software for performance and fuel analysis entered into with CAE

5.4.8.1. SAA entered into a five year contract with CAE Flightscape Inc. (a further entity within the CAE group of companies) on 20 December 2012, as an addendum to an existing Flight Data Monitoring Software System Purchase Agreement ("FDM contract") as referred to above;

5.4.8.2. The letter for extension (addendum) referred to software and support services to be provided by CAE for the software used to monitor and collate flight data related to the operation and performance of the aircraft. In particular, a fuel data management system ("FDMS PRAS contract") was to be developed by CAE that would result in a more fuel-efficient operation of certain aircraft included in the SAA fleet;

5.4.8.3. The total contract value amounts to US$199,632 (approximately R3 million at current exchange rate) and payments were to be made based on certain milestones and deliverables being achieved by CAE;

5.4.8.4. It is alleged that due process was not followed when awarding this contract and that no RFI (request for information) or tender process was initiated when SAA originally sought this additional service. The CPO (at the time) indicated that this service should be awarded on an 'open case tender' basis. The business case prepared for this new contract does not appear to indicate the reason or motivation that allowed this contract to be awarded and aligned with the old contract. The contract was merely awarded to CAE, as an existing service provider, as an add-on to the existing FDM contract;

5.4.8.5. A representative of CAE only signed the letter of award on 7 January 2013, while no details or evidence of a SAA signatory can be located in the agreement. The Effective Date is defined in the FDM as the Date this Purchase Agreement has been signed by both parties. The effective date is therefore indeterminable in the

agreement and it is unclear when the agreement came into effect. The FDM does not contain a signature clause;

5.4.8.6. To date, CAE have not delivered any service in accordance with the FDMS PRAS contract terms and conditions with regards to providing SAA with software that can improve the fuel efficiency of certain aircraft;

5.4.8.7. To date, CAE have allegedly billed SAA and received payments approximating US$99,000 (approximately R1.4 million at current exchange rate) for this service;

5.4.8.8. The contract is currently being reviewed by the SAA legal Department, with the assistance of an external service provider (Manong Attorneys Inc.) to establish what recourse SAA has against CAE for their non-performance in relation to this contract;

5.4.8.9. These payments are also being reviewed to determine whether they are considered to be fruitless and wasteful expenditure that require separate identification and disclosure;

5.4.8.10. CAE is allegedly claiming that SAA was responsible for providing the flight data to CAE for their further monitoring and development of FDMS software and that SAA has failed to provide this data to date. This does not however condone that CAE has been billing SAA for these services without providing proof of the milestones and deliverables being reached in order to raise the corresponding invoices payable by SAA;

5.4.8.11. It is alleged that CAE have suggested that both they and SAA walk away from the contract as it currently stands;

5.4.8.12. This is a further example where a business case has been approved (in this case by the Chief Technical Pilot at that time) following which there was no further validation done to ensure that the service was ultimately provided in accordance with the agreed terms and conditions of the contract;

5.4.8.13. It is alleged that this service has been incorrectly classified as a research and development expense in the accounting records of SAA;

5.4.8.14. It is noted that this contract is one of approximately six contracts currently entered into between SAA and CAE. It is important that management review all of the CAE contacts to establish whether the contracts have been awarded on market related terms that are in the best interest of SAA and determine whether CAE is delivering and charging for services in accordance with the contractually agreed upon terms.

5.4.9. B737-800 simulator lease/purchase agreement in view of the required visual upgrade

5.4.9.1. SAA previously leased the Boeing 737-800 simulator for 14 years while the Boeing 737-200 simulator has been decommissioned;

5.4.9.2. The utilisation of the B737-800 simulator is purportedly at 20% of its available capacity due to the phasing out of this aircraft in the SAA fleet and due to the fact that Mango pilots are currently going to Comair to train on the facilities available at Comair;

5.4.9.3. The reason for Mango pilots outsourcing their simulator hours is not clear, particularly given the fact that SAA offers Mango a daylight hourly rate of R2, 500 for simulator time in the B737-800 while Comair charges Mango R3, 000 per hour. This external sourced service may be seen as a contravention of the PFMA and classified as fruitless and wasteful expenditure, as SAA is incurring the cost of maintaining the simulator while a related company in the SAA group is outsourcing this same service. Management should consider investigating this allegation further and ensuring that the appropriate utilisation of SAA resources and facilities is carried out from a group perspective;

5.4.9.4. SAA are phasing out the use of Boeing 737-800's and although Mango intends to take over these aircraft, SAA has signed the purchase agreement to buy this simulator. The purchase consideration is approximately R49 million excluding the visual upgrade that is required to be installed in the simulator for an anticipated cost of approximately R30 million;

5.4.9.5. The B737-800 simulator will require ongoing maintenance expense due to the age of the equipment and the current outdated software that requires an upgrade;

5.4.9.6. The Mango pilots (and SAA pilots until such time that SAA phases out the inclusion of Boeing 737-800's from its fleet) can keep their flight simulator hours current by utilising the Comair equipment at a cost. An exercise needs to be carried out to evaluate whether the purchase or lease of a new simulator is appropriate or whether an outsourced service provider is the best option for SAA going forward, particularly given the fact that SAA are phasing out the use of Boeing 737-800's in their fleet;

5.4.9.7. There does not appear to be a business case nor budget set aside for the purchase of the old leased simulator. It has also been intimated that an outright purchase of a new B737-800 simulator would be a more cost efficient option and would also provide SAA with an opportunity to generate external revenues (such as those currently marketed and achieved by Comair) in relation to providing simulators at SAA for external customers' use;

5.4.9.8. It has been suggested that that this contract should be ceded / renewed directly by Mango for SAA not to be a party to this agreement as informed by its B737-800 exit strategy;

5.4.9.9. A request has been made for the GM of SAA Flight Operations to initiate an investigation into all contracts signed by Flight Operations to establish the risks associated with the contracts and provide appropriate intervention where needed. SAA legal has enlisted the assistance of Manong Attorneys Inc. to evaluate these contracts, but, as yet, we cannot confirm whether this specific contract is being addressed by SAA legal or Manong Attorneys Inc. is addressing.

5.4.10. IHS/BWA contract – subscription fees

5.4.10.1. SAA has entered into a contract with Bateman Watling and Associates ("BWA" as part of the IHS international group of companies) in respect of the following itemised billing line items:

5.4.10.1.1. EASA – European Organisation for Civil Aviation – R30,744;

5.4.10.1.2. ICAO Essential – R119,990;

5.4.10.1.3. ICAO Legal, Assembly and Council – R42,933; and

5.4.10.1.4. License fee for applications and services – R23, 240.

5.4.10.2. The total invoice amount is R247, 274.55 inclusive of VAT, however there does not appear to be a signed contract in this regard;

5.4.10.3. There does not appear to be any business case or budget allocated for this service and procurement staff at SAA are struggling to obtain a clear understanding and confirmation from SAA Commercial as to the purpose of this contract and the reason for extending this contract;

5.4.10.4. A request has been made for the GM of SAA Flight Operations to initiate an investigation into all contracts signed by Flight Operations to establish the risks associated with the contracts and provide appropriate intervention where needed. SAA legal has enlisted the assistance of Manong Attorneys Inc. to evaluate these contracts, but, as yet, we cannot confirm whether this specific contract is being addressed by SAA legal or Manong Attorneys Inc. is addressing.

5.4.11. Airbus consulting services contract

5.4.11.1. SAA entered into a contract with Airbus, dated 4 March 2014, where the consulting service procured related to a flight operations organization assessment in order to bring operational and organizational advice, contributing to secure efficient operations in line with regulation standards and recommended best industry practices;

5.4.11.2. The contract period amounted to 8 months while the fee for the service provided amounted to EUR61, 700. In addition to these costs, SAA had to pay for the traveling and accommodation expenses of the Airbus staff that travelled to SAA to perform the review and assessment;

5.4.11.3. It has been alleged that the contract was signed without the proper approvals and that neither business case nor budget was provided in respect of the service offering;

5.4.11.4. The SAA procurement Department is still awaiting confirmation as to whether any services were received in accordance with this contract and the reason as to why these services were outsourced when SAA purportedly has the technical in-house expertise to do the appropriate assurance quality reviews;

5.4.11.5. Furthermore, the services purportedly sourced from Airbus at the time, were being supplied by both existing internal staff members and supposedly by CAE through their FDMS PRAS contract as referred to above;

5.4.11.6. A request has been made for the GM of SAA Flight Operations to initiate an investigation into all contracts signed by Flight Operations to establish the risks associated with the contracts and provide appropriate intervention where needed. SAA legal has enlisted the assistance of Manong Attorneys Inc. to evaluate these contracts, but, as yet, we cannot confirm whether this specific contract is being addressed by SAA legal or Manong Attorneys Inc. is addressing.

5.4.12. General comments relating to the simulator and software maintenance contracts at SAA

5.4.12.1. SAA has entered into numerous hardware maintenance contracts and software warranties with various suppliers (most commonly CAE Inc. and its subsidiary, FDM Flightscape Inc.) and are incurring considerable annual expenses in order to maintain the simulators, purchase consignment spares for the hardware needed to operate simulators and purchase additional annual or ad hoc upgrades to software used in the simulators that are operated by SAA;

5.4.12.2. Our general comments in respect of this area of the SAA operations are set out below, but most notably, it appears that SAA management cannot locate or fully comprehend numerous of these respective contracts, to establish which services and supply of

goods relate to the contractual terms of each of the individual agreements;

5.4.12.3. It is alleged that SAA is currently incurring additional regular expenses relating to hardware maintenance and software warranties which could easily already be covered by existing contracts. However, if management are not aware of SAA's rights and entitlement under these existing contracts, they will continue to approve payments for services that would ordinarily be covered in the prevailing terms and conditions elsewhere within the operations;

5.4.12.4. In addition to this, CAE Inc. have negotiated to use 50% of the man hours available on the fully serviced, maintained and SAA staffed simulators, at no further expense to SAA. So in addition to paying possible unwarranted maintenance expenses, SAA is effectively funding the simulators in order for CAE Inc. to generate its own revenues in respect of the simulators leased to SAA;

5.4.12.5. SAA also runs the risk, as indicated in one instance detailed below, that SAA management may continue to approve payment for services relating to the development of new software by CAE Inc. on behalf of SAA that has never been developed or delivered to SAA;

5.4.12.6. SAA management need to carry out a full investigation into the capacity constraints and facility availability in respect of the simulators used across the SAA group, taking into account the requirements of SAA, Mango, SAA Express and SAA Cargo pilots;

5.4.12.7. It appears that there are a number of decisions currently being made that affect different areas within the business, however autonomous decision making processes are followed and the long term turnaround strategy for the group as a whole is being compromised;

5.4.12.8. It appears that SAA are currently paying for services or honouring contracts (where services have not necessarily been provided) where the underlying terms and conditions of the respective

contracts are not known to those approving payments in terms of the procurement contracts;

5.4.12.9. It has been alleged, and is currently being investigated by SAA legal, that certain key contracts within Flight Operations at SAA (as described in more detail above) have been awarded without following the appropriate policies and procedures for procuring the respective services;

5.4.12.10. It is alleged that contracts have been concluded outside the procurement processes, without business cases being presented, without proper BAC approval, and without signed contracts being available for review;

5.4.12.11. There appears to be a distinct lack of monitoring of the deliverables required in each instance (as set out above) and that the lack of contract monitoring by accounting officials has resulted in possible irregular, fruitless or wasteful expenditure being incurred by the SAA group that would be in contravention of the PFMA guidelines and require separate disclosure in the annual report of the group;

5.4.12.12. It has been alleged that the lack of willingness by the responsible officials to co-operate with attaining the necessary supporting information and contract documentation (including blacking out detail contained therein) raises the suspicion that SAA staff may be colluding with suppliers causing financial loss to the group;

5.4.12.13. The contracts, respective values and status of legal investigations has been requested from SAA legal on numerous occasions from Mr Ephraim Lusenga, however as at 24 November 2016 we have not had any response in this regard. We raised particular concern surrounding the fact that these legal reviews had been outsourced to an independent service provider, however the status of these reviews and any follow up information has not been shared with our team, as requested from SAA legal;

5.4.12.14. VAT implications of these services contracts needs to be investigated further as certain invoices do not appear to reflect valid VAT registration number or details for SAA while the services are

provided within SA borders and consequently, SAA should be eligible to claim the VAT inputs.

5.4.13. Devaluation of the Rand

5.4.13.1. SAA hedging policy review - Elsewhere in this report, it is highlighted that the continuing deterioration in the Rand against foreign currencies such as the Pound, Euro and US Dollar significantly impacts on the bottom-line of the group;

5.4.13.2. According to the 2nd Quarter Report, SAA's Treasury Department reviews the Financial Risk Management Policy (FRMP) on an annual basis. SAA's Treasury Department together with National Treasury has benchmarked the current FRMP against two SOC policies, as well as meeting with seven banks during the period January to March 2016. The SAA Team commenced incorporating the "international best practice" recommendations into the FRMP during April and May 2016, in preparation for submitting to the Board for approval;

5.4.13.3. There have been unforeseen delays in concluding the exercise but it will be concluded soon.

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5.5. Funding costs and arrangements

5.5.1. Potential cost savings from consolidating SAA's debt

5.5.1.1. During the course of our investigation, we were informed that there was a potential cost saving of some R450 million to be derived from the consolidation of SAA's debt funding of approximately R15 billion, which currently is spread among several banks;

5.5.1.2. An extract from the SAA EXCO Treasury Report dated 23 September 2015 reflected that:

5.5.1.2.1. On recommendation by the Audit and Risk Committee on 24 August 2015, the Board of Directors of SAA ("Board") resolved to approve the recommendation authorising the following persons, viz: Wolf Meyer, former Chief Financial Officer, or Lindsay Olitzki, HOD: Financial Accounting. Thuli Mpshe, then Acting CEO; and the Board to issue a Request for Proposal ("RFP") for long term funding to Banking and Non-Banking Financial Institutions for the financing of a total amount of R15 billion in order to consolidate the current debt portfolio of the company.

5.5.1.3. It was also resolved to:

5.5.1.3.1. Include the Board as a whole and Acting CEO, together with the CFO and/or HOD Finance in the process of issuing the RFP, evaluating the proposals and appointing bidders;

5.5.1.3.2. Ensure that the RFP takes into account secured and unsecured funding when going into the market; and

5.5.1.3.3. Ensure the RFP is limited to the counterparties that responded to SAA in the February 2015 RFP, as well as other institutions that can be recommended by the Board members and attendees.

5.5.1.4. It was a condition of the Board that the RFP must be circulated to Board members for input and approval;

5.5.1.5. The Board by Round Robin on 18 September 2015 approved the RFP for R15 billion loan funding and confirmed the list of counter parties to be included in the RFP;

5.5.1.6. The RFP was issued on 23 September 2015 with a closing date of 13 October 2015. Proposals for funding the R15 billion were received from bidders or potential funders, as set out in Table 14 below:

Seacrest Investments 115 (Pty) Limited
Kinfedi
Innovex
Hamershlag
Standard Chartered Bank
ABSA
Nedbank

Above: Table 14: Potential bidders and funders of SAA's consolidated debt per RFP issued 23 September 2015

5.5.1.7. Based on a submission dated 23 November 2015 from SAA's Group Treasury to the Board, the secured facility offered by Seacrest Investments 115 (Pty) Limited ("Seacrest") emerged as the preferred option as it provided SAA with the following benefits:

5.5.1.7.1. The proposed funding is at significantly lower cost than the other bidders;

5.5.1.7.2. An initial Government Guarantee of R3 billion to be provided within three months from signing secures the total facility of R15 billion. The remaining balance of the company's going concern guarantees will be utilised for this purpose;

5.5.1.7.3. An initial unsecured drawdown of R3 billion is available on awarding of the contract. This drawdown will fund the company's working capital requirement over the festive season when revenues are low. It will also allow SAA time to secure the R3 billion Government Guarantee to be provided within three months from signing;

5.5.1.7.4. The final drawdown requires a guarantee of R3 billion which will be provided from guarantees which have been cancelled as a result of the early repayment of current long-term loans;

5.5.1.7.5. The company does not have to provide immediate guarantees for R15 billion to secure the facility.

The guarantees will be provided over a period of 4 years;

5.5.1.7.6. Seacrest is rated as a level 2 BEE contributor that would positively impact on SAA's BEE rating.

5.5.1.7.7. Successfully consolidating and improving SAA's debt profile (short- and long-term);

5.5.1.7.8. Significant reduction in cost of funding. High cost short-term banking facilities and term loans can be re-paid which would yield substantial interest cost savings. Early conservative estimates are in the region of R180 million p.a.;

5.5.1.7.9. Short-term facilities would still be available in the event of emergency funding required;

5.5.1.7.10. By utilising cheaper Rand funding, the dependence on the repatriation of valuable surplus foreign currency from offshore operations is significantly reduced. SAA will increase its off-shore foreign currency balances thereby substantially increasing

its natural hedge against the further devaluation of the Rand; and

5.5.1.7.11. Creating a grace period in paying back capital until SAA's anticipated profit turnaround.

5.5.1.8. It is our understanding that the proposal by Seacrest was in fact a JV between Seacrest and its business associates. One of the business associates was Grissag AG (Pty) Limited ("Grissag");

5.5.1.9. Seacrest was formed in 2006 and its directors are Sunday Godfrey Rambao and Leon Elsebeth;

5.5.1.10. Grissag was registered on 6 March 2015, barely six months prior to the RFP advertisement. Its directors are Sergey Pokusaev, a citizen of the Russian Federation, and Pieter Johannes van der Merwe, a South African citizen;

5.5.1.11. At a meeting held on 3 December 2015, the Board resolved to decline the secured term loan facility of R15 billion for a period of 10 years offered to SAA by Seacrest for the consolidation of the debt portfolio of the company;

5.5.1.12. The reason for the not accepting the recommendation was due to the lack of information contained in the due diligence report and the reluctance by Seacrest to provide proof as to the source and availability of funds. It is our understanding that Seacrest wanted SAA to furnish a Letter of Intent before it disclosed the source of and proof of access to the funds;

5.5.1.13. The Board also declined the recommendation that in the event that the Seacrest transaction could not be executed, the Standard Chartered Bank, ABSA and Nedbank Offers be executed as the alternatives to finance the additional funding requirement, for the FY 2015/16 year, as the funds offered would not be sufficient to consolidate SAA's funding debt;

5.5.1.14. The Board then approved that the Interim CFO and Acting CEO urgently take the necessary steps to negotiate, conclude, execute and sign and / or dispatch all documents and notices related to the R14 billion loan offer received from the Free State Development

Corporation SOC Ltd ("FSDC") ") as per the letter circulated at the Board meeting. The Board recognized that as a State owned entity, the FSDC carried less risk for the SAA and in the unlikely event of default by SAA, another SOC would treat SAA differently than a private lender;

5.5.1.15. We noted that the offer received from the FSDC was also a Joint Venture. The parties to this Joint Venture were FSDC and Grissag. It is odd that approval was granted to seemingly proceed with the offer by the FSDC when there were concerns relating to the Seacrest due diligence process, where Grissag was also a JV partner. There was no indication that a subsequent due diligence addressed the initial concerns;

5.5.1.16. It is our understanding that the transaction with the FSDC has subsequently been shelved for a variety of factors, including that the FSDC mandate only allows for provincial funding and that provincial treasury approval was required;

5.5.1.17. The projected saving is based on consolidating the debt into long term debt which would theoretically reduce SAA's current average cost of funding of around 9% per annum down to 6% per annum;

5.5.1.18. Total anticipated annual savings would therefore be in the region of R450 million (R15 billion x 3 %);

5.5.1.19. Whilst the potential savings may be achievable by consolidating SAA's debt, it is our view that caution should be exercised when "placing all of one's eggs in the same basket" particularly in the absence of a thorough and comprehensive due diligence process for, inter alia, the following reasons:

5.5.1.19.1. Possible contravention of international and local anti-money laundering legislation;

5.5.1.19.2. Dependency on the continued financial strength of the funder;

5.5.1.19.3. Limitation of access to a variety of innovative funding options;

5.5.1.19.4. Administrative and debt consolidation / transfer costs may be prohibitive;

5.5.1.19.5. Exertion of possible unreasonable demands of the funder;

5.5.1.19.6. Potential future negotiating parameters are diminished;

5.5.1.19.7. Ownership structures and possible changes thereto of the funder may be undesirable to the reputation of SAA; and

5.5.1.19.8. Susceptibility to interest rate increases which may be outside the control of SAA.

5.5.1.20. Based on the concerns stated above and further that National Treasury regulations need to be adhered to and further any consolidation of debt that is secured by Government Guarantees will require approval of the National Treasury; SAA should consider approaching the South African Banking institutions to determine whether they would form a consortium to spread the risk and that all banks as part of the consolidation have the same contract terms and rates. Further to this any transaction fees could be spread amongst the various banks and these transaction fees will be based on costs for raising the funds, transferring of bonds and any cancellation fees incurred by SAA;

5.5.1.21. SAA Treasury, Chief Financial Officer and the Head of Legal can manage this process with oversight from National Treasury.

5.5.2. Possible impact of consolidating debt

5.5.2.1. SAA currently only services the interest element of its on balance sheet obligations;

5.5.2.2. 54% of SAA's expenses are incurred in USD whereas only approximately 44% of its revenue is denominated in USD;

5.5.2.3. SAA is currently in the process of sourcing alternative funders to replace its existing on balance sheet funding debt with a view to obtaining a better interest rate on extended terms;

5.5.2.4. Initial enquiries suggest that an average rate of 6% per annum is achievable, compared to the average current cost of debt of approximately 9% per annum;

5.5.2.5. The calculations and scenarios set out below attempts to demonstrate potential savings that may be achieved, based on SAA's ability to renegotiate its long term on balance sheet debt;

5.5.2.6. We have considered various alternative scenarios to demonstrate potential savings that SAA could achieve if it was successful in renegotiating its current funding and replacing such with a cheaper alternative;

5.5.2.7. Assumptions

5.5.2.7.1. For the purposes of this exercise we have assumed a loan-funding requirement of R 15 billion over a ten year term at a renegotiated interest rate of 6% per annum;

5.5.2.7.2. Loan funding will be rand denominated;

5.5.2.7.3. Loan funding at a rate of 6% is achievable;

5.5.2.7.4. The fund allows for flexible payment arrangements regarding capital reductions.

5.5.2.8. Scenario 1: SAA is able to secure funding at an interest rate of 6% per annum and continues to service the interest portion of the loan only, as is the current situation.

5.5.2.9. The potential saving under this scenario is summarised in the table below:

Loan facility of R 15 billion	**Interest per annum at a rate of 9%**	**Interest per annum at a rate of 6%**	**Potential savings in interest cost**
Year 1	1 350 000 000	900 000000	450 000 000
Year 2	1 350 000 000	900 000000	450 000 000
Year 3	1 350 000 000	900 000000	450 000 000
Year 4	1 350 000 000	900 000000	450 000 000
Year 5	1 350 000 000	900 000000	450 000 000
Year 6	1 350 000 000	900 000000	450 000 000
Year 7	1 350 000 000	900 000000	450 000 000
Year 8	1 350 000 000	900 000000	450 000 000
Year 9	1 350 000 000	900 000000	450 000 000
Year 10	1 350 000 000	900 000000	450 000 000
Total potential savings over a ten year term	**13 500 000 000**	**9 000 000 000**	**4 500 000 000**

5.5.2.10. As can be seen from the table above, if the funding can be renegotiated at an interest rate of 6% per annum, and SAA continues to service the interest element of the facility only, potential savings of R 450 million per annum is achievable. This translates to a saving of R R4, 5 billion over the ten-year term;

5.5.2.11. For the sake of brevity and ease of calculations, a total debt facility to be renegotiated is assumed to be R15 billion;

5.5.3. Renegotiation of funding facility at a rate of 6% vs current average cost of debt of approximately 9%.

5.5.3.1. SAA currently only services its interest obligations of its on balance sheet funding. This is a costly way to fund operations and it is imperative that going forward, strategies need to be implemented to

commence reducing the debt over time. This will result in considerable interest cost saving and contribution to the bottom line as will be shown in the scenarios outlined below;

5.5.3.2. Scenario 2: SAA is able to secure funding at an interest rate of 6% per annum and continues to service the interest element and in addition utilises the savings in interest costs to pay off a portion of the capital debt as well;

5.5.3.3. Under this scenario, the savings in interest is R 450 million per annum which translates to a monthly saving of R 37, 5 million. Using an amortisation table, assuming a capital repayment of R37,5 million per month in addition to servicing the interest element, the potential savings to SAA is summarised in the table below:

Loan facility of R 15 billion	Current position: Interest incurred at a rate of 9% per annum	Interest at a rate of 6% per annum and repayment of capital at R 37,5 million per month	Potential savings in interest cost
Year 1	1 350 000 000	887 416 411	462 583 589
Year 2	1 350 000 000	858 885 267	491 114 733
Year 3	1 350 000 000	828 594 385	521 405 615
Year 4	1 350 000 000	796 435 228	553 564 772
Year 5	1 350 000 000	762 292 564	587 707 436
Year 6	1 350 000 000	726 044 055	623 955 945
Year 7	1 350 000 000	687 559 818	662 440 182
Year 8	1 350 000 000	646 701 957	703 298 043
Year 9	1 350 000 000	603 324 073	746 675 927
Year 10	1 350 000 000	557 270 735	792 729 265
Total potential savings over a ten year term	**13 500 000 000**	**7 354 524 493**	**6 145 475 507**

5.5.3.4. It will be noted that potential savings under this scenario ranges from R 462,5 million in year 1, increasing to R792,7 million in year 10, culminating in a total potential saving of R 6.1 billion over the ten year term;

5.5.3.5. In addition to the savings in interest costs, the loan funding will reduce from R 15 billion to R 8,854 524 495 by the end of the ten year term;

5.5.3.6. This option will result in considerable improvement in the liquidity and cash flow position, as well as the ability to raise additional funds and reduce reliance on the guarantee from government over time;

5.5.3.7. Scenario 3: SAA is able to secure funding at an interest rate of 6% per annum and continues to service the interest element and in addition utilises the savings in interest and other cost compression savings to pay off the full debt over ten years

5.5.3.8. Clearly, this will be the best scenario, depending on SAA's ability to source sufficient funds from other cost compression exercises that could be added to the savings from interest rates reductions, to fully liquidate the debt over ten years.

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5.5.3.9. This scenario is depicted in the following table:

Loan facility of R 15 billion	Current position: Interest incurred at a rate of 9% per annum	Interest at a rate of 6% per annum and repayment of capital at R 166 530 753 million per month	Potential savings in interest cost
Year 1	1 350 000 000	869 285 723	480 714 277
Year 2	1 350 000 000	799 646 335	550 353 665
Year 3	1 350 000 000	725 711 742	624 288 258
Year 4	1 350 000 000	647 217 025	702 782 975
Year 5	1 350 000 000	563 880 926	786 119 074
Year 6	1 350 000 000	475 404 838	874 595 162
Year 7	1 350 000 000	381 471 739	968 528 261
Year 8	1 350 000 000	281 745 051	1 068 254 949
Year 9	1 350 000 000	175 867 440	1 174 132 560
Year 10	1 350 000 000	63 459 530	1 286 540 470
Total potential savings over a ten year term	**13 500 000 000**	**4 983 690 349**	**8 516 309 651**

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5.6. Revenue streams and appropriate accounting controls

5.6.1. Revenue recognition areas

5.6.1.1. As part of our revenue recognition and cost compression exercise we have identified numerous key areas of potential revenue leakage and where expected cost savings or improved earnings could be achieved by management of SAA;

5.6.1.2. Table 15 below sets out significant findings that have been identified to date, with particular focus on the revenue leakage that can be stopped by SAA;

Report section reference	**Areas of potential revenue leakage**	**Expected net savings (R'million)**
4.5.1	Ticket fare audits	154.899
4.5.2	Ticket tax audits	118.347
4.5.3.2	Interline related adjustments	80.000
4.5.3.3	Potential Interline adjustments	132.810
4.8	Refund audits of GSA & own sales	12.000
4.9	Ancillary revenue	280.326
	Total expected revenue savings	**766.394**

Above: Table 15: Identification of areas of potential revenue leakage

5.6.1.3. The table represented above does not detail all the various areas of the work performed and possible cost savings that can be achieved.

5.6.2. Revenue Accounting (main risks)

Currently SAA's Revenue Accounting (Revenue Protection and Accounting Control) Department has limited measures and staff resources in place to detect and prevent revenue leakage, namely in the following areas:

5.6.2.1. No own sales fare and tax audits are performed resulting in potential revenue leakage

5.6.2.1.1. Mr Mellet confirmed that, SAA utilizes external service providers, namely Zero Octa to perform sales audits of SAA agent sales, addressing fares, commissions and taxes. A recovery fee is charged on monies recovered from sales agents. SAA verifies the errors detected before the agents are billed for the recovery via an Agent Debit Memo ("**ADM's**") issued through the relevant BSP or ARC;

5.6.2.1.2. The Revenue Accounting Department has only 3 people dedicated to the verification and relationship management with agents and service providers. The fare audit recovery for the year ended 31 March 2015 managed by Revenue Accounting was **R4.1 million** versus the recovery costs of **R1.3 million**;

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5.6.2.1.3. SAA ran a pilot project and requested Zero Octa to include GSA sales in their audit. July 2014 to February 2015 sales were audited. As this was for SAA's own Amadeus sales done by GSA's (not via BSP / ARC) Zero Octa charges a fee per ticket audited. Therefore the costs for this exercise were GBP28 266 (approx. R523 000). The results of this pilot project are summarized in Table 16 below:

GSA Location	Audit volume	Sales (R'million)	Errors (no. of ADM's raised)	Recoverable (R)
Africa	71 181	570 219 180	1 965	2 508 431
Asia Pacific	13 375	123 911 662	1 701	1 519 806
Europe	2 573	34 754 476	113	250 748
South America	570	5 088 221	51	184 214
Total audited	**87 699**	**733 973 539**	**3 830**	**4 463 199**
Total Amadeus (*)		**5 451 655 857**		

Above: Table 16: Results of pilot project – period July 2014 to February 2015

Figures ex: Mr Mellet memo to CFO dated 27 May 2015 re: General sales audit continuation and other revenue protection risk

Legends - (*) Total Amadeus sales period July 2014 to February 2015. 13% of Amadeus sales audited and 0.6% errors identified.

5.6.2.1.4. The Revenue Accounting Department currently has insufficient staff resources available to recover the monies lost due to incorrect ticketing by GSA's. The GSA agreements make provision that revenue losses due to incorrect ticketing can be recovered;

5.6.2.1.5. In the motivation prepared by Mr Mellett dated 27 May 2015 the following recommendations were made to the CFO, Mr Meyer:

5.6.2.1.5.1. Implementation of APRA sales audits and interline audit functionality (Phase II of APRA implementation);

5.6.2.1.5.2. Redeploy staff from Revenue Accounting processing functions and SAA ticketing offices to sales and Interline outward billing audit functions;

5.6.2.1.5.3. Contract in a Revenue Management specialist with Interline knowledge to review all current Interline Agreements and SAA fare filing practices, as well as to assist with training of Revenue Accounting staff;

5.6.2.1.5.4. Request and utilize the Ticketing Support Manager to train GSA's.

5.6.2.1.6. Although Mr Meyer approved these recommendations on 27 May 2015, no further action was taken and no additional staff was employed. Furthermore none of the revenue protection related measures were implemented. In the absence of Mr Meyer and/or minutes of meetings we were unable to establish whether Mr Meyer escalated any of the concerns raised to Exco or the Audit and Risk Committee;

5.6.2.1.7. Further recommendations made by Mr Mellett in order to protect Revenue include requests for Exco to:

5.6.2.1.7.1. Appoint a specialist Project Manager to assist with the APRA Phase I close out and the enforcement of enhanced APRA

deliverables to ensure that SAA makes progress with reports being created by IT, that are necessary to improve financial control; and

5.6.2.1.7.2. Appoint a specialist Project Manager to ensure that SAA implement the initiatives discussed above effectively concerning SAA own sales office and GSA ticket fare, ticket tax, refund audits and interline billing audits.

5.6.2.2. Fare audit recoverable

The total expected fare audit recoverable for the period July 2014 – February 2015 managed by Revenue Accounting would be **R4.4 million** versus the audit cost of **R523, 000.**

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5.6.2.3. Revenue leakage due to the absence of ticket fare audits

5.6.2.3.1. Using an average error rate of 0.6%, which was identified for the period, July 2014 to February 2015, we took the full year own sales figures for the last two financial periods to determine the total potential revenue lost due to absence of fare and tax ticket audits. Table 17 represents an analysis of the potential revenue lost due to absence of ticket fare and tax audits:

	March 2015	**March 2016**
Amadeus - Own sales (gross fares only includes SAX & Airlink)	4 742 234 342	5 163 312 510
Average error rate (based on period July 2014 to February 2015)	0.6%	0.6%
Potential errors not detected at 3%	**142 267 030**	**154 899 375**
Potential errors not detected at 4%	**189 689 374**	**206 532 500**
Potential errors not detected at 5%	**237 111 717**	**258 165 626**

Above : Table 17: Potential revenue lost due to absence of ticket audits - March 2015 and March 2016

(Figures ex Mr Mellett – sales flown spreadsheet update 31 May 2016)

5.6.2.3.2. According to Mr Mellett the industry norm as quoted by Amadeus and Mercator is that conservatively 3% to 5% of sales not being verified could be in error with a loss of revenue to SAA. Therefore we have extrapolated that with an error rate that can range from as low as 3% to as high as 5% (the potential losses due to sales fares not being audited at 3%, 4% and 5% is shown above). In

2016, 3% equates to a potential revenue leakage of **R154 million** per annum;

5.6.2.3.3. This needs to be highlighted as a high-risk area requiring the Board's urgent intervention, as revenue leakage is material and a significant cause for concern.

5.6.2.4. Revenue leakage due to the absence of ticket tax audits

5.6.2.4.1. The potential losses due to the tax portion of sales not being audited at 3%, 4% and 5% is shown in Table 18 below:

	March 2015	**March 2016**
Amadeus - Own sales (tax portion only includes SAX and Airlink)	3 465 694 793	3 944 898 811
Average error rate (based on period July 2014 to Feb 15)	0.6%	0.6%
Potential errors not detected at 3%	**103 970 844**	**118 346 964**
Potential errors not detected at 4%	**138 627 792**	**157 795 952**
Potential errors not detected at 5%	**173 284 740**	**197 244 941**

Above : Table 18: Potential losses due to ticket tax error

5.6.2.4.2. In 2016, 3% equates to a potential revenue leakage of **R118 million** per annum. Amadeus (own and GSA sales) account for, 25% of SAA's total revenue. Only BSP agent sales, which account for approximately 75% are audited monthly at present, which means that 25% of total SAA Amadeus sales are not evaluated for potential revenue loss;

5.6.2.4.3. This needs to be highlighted as a high-risk area requiring the Board's urgent intervention, as the revenue leakage is material and a significant cause for concern.

5.6.2.5. Ticket tax reconciliations and detection of overpayments/over-claims by ticket tax code and reconciliations

5.6.2.5.1. Potential revenue leakage due to incorrect Interline ticket taxes claimed in interline settlement process and incorrect payments to various tax authorities (more than collected taxes/over-claims by ticket tax code and reconciliations);

5.6.2.5.2. SAA is exposed to more than 500 ticket taxes collected on ticket sales which are paid to tax authorities or other airlines when flown. Interline ticket taxes represent an escalating revenue leakage problem. The variety of document types and revenue streams are not transparent, and without industry standardisation, SAA and other airlines struggle to accurately assess tax applicable to interline coupons, invariably resulting in incorrect billing of taxes in interline relationships;

5.6.2.5.3. However the potential revenue leakage as a result of ticket tax processing errors cannot be quantified; and

5.6.2.5.4. There is room to improve reporting to assist staff to detect ticket tax errors and to prevent revenue leakage.

5.6.2.6. Interline revenue leakage

5.6.2.6.1. Potential Incremental Interline revenue

5.6.2.6.1.1. SAA's Commercial Department has made estimates that Interline business could be increased by 10-15% on nterline revenue by improving revenue protection measures and better interrogation of SAA's tickets by the Revenue Accounting Department. Estimates

of the incremental value, which have been made, have not been included in our revenue growth calculations as the 10-15% is wholly based on negotiations with the various Interline partners. The Commercial Department is yet to provide us with information on the proposed initiatives to be implemented to generate revenue growth. Mr Munetsi agreed that there is need for a more rigorous and robust review of all Interline agreements and robust negotiations with Interline partners.

5.6.2.6.2. Interline processing errors

5.6.2.6.2.1. There is potential revenue leakage as a result of, the quality and outcome of Interline agreements, Revenue Accounting system defects and/or the ineffective utilization of Amedues and interline processing errors by the Revenue Accounting Department;

5.6.2.6.2.2. The potential Interline revenue leakage however **cannot** be quantified at present. In addition SAA may be under collecting revenue from other airlines. Invoicing of other airlines is verified on an exceptional basis and at present it is not possible to ensure that all invoices are correct;

5.6.2.6.2.3. Using average processed values of SAA flown revenues, claims

received from other airlines and SAA claimed from other airlines, the current Interline exposure can be quantified in table 19 as follows:

Detail	**Value**	**Pax**
SAA 083 ticket sales	R19.8 billion	9.1 million
Claimed by other airlines	R1.7 billion	0.6 million
Claimed by SAA from other airlines	R2.0 billion	0.8 million

Above: Table 19: Current Interline exposure

(Figures above taken from Memo by Mr Mellett to Acting CFO dated 8 January 2016 regarding assistance required managing SAA Interline exposure and revenue dilution risks)

5.6.2.6.2.4. Interline losses written off from April 2015 to November 2015 amounted to **R80 million at the year-end**. Reports to interrogate these Interline losses and prevent the contamination of revenue are not yet available and we have requested such from Mr Mellett to interrogate the type of airline and determine if the agreement is causing distortion and see how SAA can prevent contamination on the revenue line;

5.6.2.6.2.5. Mr Mellet advised us that he has proposed (in written submissions) the hiring of a business analyst to review the effectiveness and commercial viability of SAA's Interline agreements. Recent submissions have recommended the appointment of a specialist Interline audit service provider on a

short-term term basis to review all current Interline agreements and SAA Interline processing quality. If required continue with second pass audit of Interline claims accepted by SAA staff to detect errors, if any;

5.6.2.6.2.6. The verification of Interline outward billings against other airlines is currently only limited to exceptions identified (only the values detected from the high / low report) are selected for verification. The middle values could be wrong and possibly be a potential area of revenue leakage; and

5.6.2.6.2.7. The Interline agreements are becoming more complex for coding of the SAA recovery on other airlines marketing SAA flights and SAA's exposure increases when SAA markets their flights.

5.6.2.6.3. Interline exposure risk due to airline industry specific risks

5.6.2.6.3.1. "IATA believes its own interline settlement improvements can save the industry USD500 million annually, but this is dependent on airlines embracing tools and standards";

5.6.2.6.3.2. SAA sells tickets (SAA IATA code 083) with flight itineraries that extend beyond the SAA route network and therefore receive claims from those airlines for the 'revenue share", tickets taxes and

commission that those airlines are entitled too. Other airlines selling their own tickets with their unique IATA selling code also participate on the SAA route network and therefore SAA must claim from those airlines the revenue share, taxes and commission that SAA is entitled too. The revenue share is based on various fares and penalty clauses that are negotiated between airlines and documented in Interline Agreements approved by the Commercial Department. The negotiated fares, rules and penalty clauses are coded into SAA's Revenue Accounting system and at the time of sale the total ticket price is prorated (value broken down and allocated to each flight sector on the ticket);

5.6.2.6.3.3. All airlines with Interline agreements are exposed to the risk that the airline with the best analytics and supporting data will negotiate the best deals as they can steer the other airline toward their goal of optimizing their revenue share.

5.6.2.6.3.4. According to Mr Mellett, SAA has no meaningful and effective reports to assist with the evaluation of the quality and outcome of the Interline agreements implemented by SAA. The Interline agreements are managed by the Commercial Department;

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5.6.2.6.3.5. Delays in Interline settlements also result in potential revenue leakage as the timeframe before an Interline transaction is finalized can be more than 12 months from rendering of service.

5.6.2.6.3.6. SAA currently has a provision for potential interline losses of R147 million (at the year-end), in particular where SAA overbill other airlines due to reference table coding errors. According to Mr Mellett, 90% of the R147 million **(R132 million)** is likely to be released from this provision and written off to the income statement. The main causes of the losses is due to complex Interline agreements which result in processing and billing errors on inward and outward billings.

5.6.2.6.3.7. As the Interline agreements are complex, the coding required to ensure timeous recovery of SAA revenue on other airlines marketing SAA flights can become difficult. In addition, SAA's exposure when SAA markets the flights of other airlines can pose an accounting challenge for the Revenue Accounting Department due to the complex coding.

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5.6.2.6.4. Interline exposure due to APRA system risks in respect of interline processing

5.6.2.6.4.1. The process to load outward and inward billings in Amadeus is currently ineffective. There are time delays, which result in SAA not verifying claims immediately after each week's ICH settlement, and this has a negative impact on SAA's cash flows. In addition the Interline outward billings verification exercise against other airlines is currently limited to exceptions (high / low values detected for verification purposes); and

5.6.2.6.4.2. The potential revenue leakage as a result of interline processing cannot be quantified**.**

5.6.3. Passenger Revenue Optimization System

5.6.3.1. SAA utilizes a system, which optimizes flights based on demand to maximize revenue. The Passenger Revenue Optimization System ("**Pro's**") is a US dollar based tool with annual licensing fees;

5.6.3.2. Since migration from RAPID to APRA in April 2015, Revenue Management has not yet received an accurate Pro's input file from the IT Department due to the migration to the APRA system and a high percentage of errors; and

5.6.3.3. The IT Department is responsible to deliver this file on a monthly basis. If data is outdated it dilutes the fare and revenue and opens the classes right down to the lowest (selling tickets at a cheaper fare than what they could normally be sold for) resulting in the leakage of revenue from SAA. At this stage it is difficult to quantify the potential loss of revenue due to the dilution of fares.

5.6.4. O&D and RAAV Strategies

5.6.4.1. In our discussions with Ms Marques, she outlined examples of strategies and system improvements that could be implemented from a commercial drive perspective;

5.6.4.2. For example SAA has a Market Valuation Model ("**MVM**") system in place but they don't have a strategy module such as Real Time Dynamic Pricing ("**RTDP**") or Revenue Availability and Active Valuation ("**RAAV**") to address strategy options. Such a strategy module is recommended in line with global industry standards. By utilizing the Pro's Origin and Destination system ("**O&D**") incorporating using RTDP, SAA could potentially increase its revenue. Ms Marques (Manager - Revenue Management) could not determine an estimate of the likely incremental value in revenue if the various strategies were implemented. Discussions are currently being held with Pros Holdings who could determine the incremental value to be earned by implementing RTDP. However according to the Commercial Department implementation of RTDP could have potential incremental revenue but only if addressed as part of Common Information Technology Platform (CITP) with Amadeus;

5.6.4.3. In response to the suggestion above, Mr Brewis (Manager Revenue Integrity) stated that the Pro's RTDP product would be a costly product with the inventory supplier Amadeus. Not only would the implementation fees from Amadeus be material (in Euro) as no carrier has implemented this solution in Amadeus, but the Amadeus transaction fees between Pro's RTDP and Amadeus Inventory would be a significant cost for SAA;

5.6.4.4. The likely costs of such a strategy would be **R50 million** (indicative costs based on a business case prepared in 2009) which seems far too great versus the potential revenue increase that it might help to achieve;

5.6.4.5. Ms Marques outlined the following different strategies that are available in RAAV and that could be implemented:

5.6.4.5.1. Network improvements where online domestic and regional connections with international flights are

closed for sale. The O&D seat availability is closed for sale when the international flight has seats available. this is caused by a high demand domestic/regional flight and suggestions are for SAA to apply point of commencement logic instead of point of sale when the yield is retrieved in Amadeus. Other suggestions include influencing (reducing) the yields of certain POS by currency exchange rates;

5.6.4.5.2. Interline carriers – applying Interline Adjustment Factor (IAF) calculation in Amadeus to stop carriers selling SAA seats on lower classes when there is demand;

5.6.4.5.3. Codeshares – only SAA metal is on O&D but not the codeshare flight. Some airlines are able to close out the codeshare portion from being sold by SAA due to the fact that they control it since they have the strategy tool;

5.6.4.5.4. Seating availability analysis is a reporting tool that is currently not in use which would be used to inform SAA of the availability of different POS and whether the availability is set up correctly; and

5.6.4.5.5. Since the date of our report, management has resolved and/ or implemented some of the strategies noted above in the 2016/17 financial year.

5.6.5. Refund audits of GSA and own sales

5.6.5.1. Revenue currently generated by the refund function is, administration fees and where applicable cancellation fees deducted from refunds due to passengers amounts to between R18 million – R20 million per month. On average the refunds Department receives 6 000 refund applications per month;

5.6.5.2. Currently Zero Octa is not auditing the own sales and GSA refunds. Therefore 25% of total sales as well as refunds are currently not being audited. There is potentially undetected revenue leakage and an opportunity to increase revenues if an audit function was implemented. We established from Mr Mellet that when agents perform a refund, Zero Octa audits the refund;

5.6.5.3. Indications are that when transactions are audited, an error rate of 0.77% has been proven as indicative of expected error rates. This is based on a presentation of Zero Octa's experience with SAA. A trial run audit of GSA sales conducted by Zero Octa highlighted a potential error rate of 4% when applied to information not previously audited;

5.6.5.4. Various factors contribute to this, the main one being that less attention could be expected to be paid to transactions where it is known that there are no checks being conducted, hence the increased error rate;

5.6.5.5. Applying this principle to refunds, we extrapolated that the potential revenue lost through the non-audit of refunds is reflected in the Table 20 below:

Table 20: Potential revenue leakage through non-audit of refunds:

Global refunds	Estimated at R100 000 000 per month	1 200 000 000 p.a.
GSA (own sales refunds)	Estimated at 25% of total global refunds (i.e. R100 000 000 per month x 25%)	300 000 000 p.a.
Potential savings from auditing GSA refunds	R300 000 000 per annum at an error rate of 4%	12 000 000 p.a.

5.6.5.6. From our discussions with Mr Kgaswane the two markets in Africa that are a concern in terms of refunds are Angola and the Democratic Republic of Congo ("**DRC**"). In these two territories there are no BSP's and hence the ticket sales do not go through the Zero Octa audit process. Due to SA visa requirements both markets have numerous ticket cancellations. However Mr Kgaswane stated

that he sees no material effect upon administration and cancellation revenues from these two markets. They are currently collecting all revenue and checking the process correctly and accordingly the revenue leakage is minimal;

5.6.5.7. However Mr Mellet raised his concerns that in the past, issues have been highlighted at stations (such as Angola) concerning the quality of the refunds and the incorrect interpretation of the refund rules. In the past, investigations showed that no one was checking the refunds posted into APRA. However training was carried out in August 2016 and the quality of the refunds is continuously improving;

5.6.5.8. From our discussions with Mr Mellett it appears that the refunds Department has a dire lack of staff resources and calculations indicate that a minimum of 15 refund officers are required to finalize refund applications within the prescribed time limits. The refunds Department currently works excessive overtime to meet the prescribed refund time limits. SAA is incurring additional expenses in overtime costs. As the refunds Department generates revenue, this Department should be given priority in order to function properly and build capacity;

5.6.5.9. Mr Mellett presented recommendations to the SAA CFO on 6 October 2015, for the Board to approve changes to the Revenue Accounting refund function structure. The recommendations included increasing the suggested number of positions to support the revenue protection initiatives and enhance the customer service aspect of refunds;

5.6.5.10. It appears that although Mr Meyer approved the recommendations on 8 October 2015, no further action appears to have been taken and no additional staff resources were employed. In the absence of Mr Meyer and/or minutes of meetings we were unable to establish if any of the concerns raised were escalated to Exco or the Audit and Risk Committee by Mr Meyer;

5.6.5.11. Lack of available data to quantify total actual annual refunds precluded us from attempting to quantify the potential lost revenue as a result of lack of an audit process over the refunds calculations.

5.6.6. Online Travel Agents (OTA'S)

5.6.6.1. Background

5.6.6.1.1. Based on discussions with Mr Brewis, it has become apparent that there are potential system weakness and gaps regarding online travel agents who are able to access flight bookings, via different country locations;

5.6.6.1.2. There are many Online Travel Agents (OTA's) that operate worldwide. Travelstart is South Africa's biggest OTA;

5.6.6.1.3. They are in the market where they operate an online website which any user can access to make bookings;

5.6.6.1.4. It is similar to the FlySAA online portal but the difference is that Fly SAA is tailor-made for SAA and SAA flights but in the case of an OTA, they display fares and seat availability based on a semi neutral basis without any preferences to any particular airline;

5.6.6.1.5. Normally, when one logs onto a specific site, it defaults to a specific point of sale linked to an IP address but this can be overridden and so change the point of sale. Because OTA's operate in different parts of the world, they have the ability to access different points of sale by overriding the link to the IP address;

5.6.6.1.6. Over time, OTA's have come to realize that the way SAA was presenting its seat availability was different by point of sale. This is referred to as revenue availability where SAA would rather track certain fares for a given flight so that you can maximize revenue from that flight. The intention is

to attract harder currencies such as dollars, Euros and pounds for example;

5.6.6.1.7. Travelstart and many other OTA's appear to have realised that they are able to manipulate the point of sale indicator so they for example have access to a greater number of travel classes, which SAA would have allocated, to a specific region or target destination;

5.6.6.1.8. The additional classes of seat availability are then accessed and booked, but when it comes to pricing, the booking is secured at the pricing from the point of origin, which is generally cheaper than the hard currency targeted;

5.6.6.1.9. As a consequence, the OTA's have an advantage over local travel agents since it is apparently not difficult to establish what SAA's preferred point of sale for a certain flight would be;

5.6.6.1.10. The OTA's consequently have an advantage over the local travel agent since the OTA has access to a greater seat availability by accessing a different point of sale and SAA accordingly loses out on the preferred targeted booking region.

5.6.6.2. Quantification of possible losses

5.6.6.2.1. We attempted to establish from Mr Brewis, the extent of the manipulation and the resultant revenue loss which this caused to SAA;

5.6.6.2.2. Mr Brewis was reluctant to provide any quantification in this regard as he indicated that it is difficult to quantify in the absence of reliable data. Seat availability is a commodity that is constantly changing; therefore predicting values is extremely difficult. He did however confirm that the practice is prevalent in the SAA environment. Mr Brewis

indicated that whilst there is a lack of data available to quantify potential losses, he can confirm that this type of abuse is happening in the SAA environment, as in certain cases it has been reported from the Sales Department that questions arise as to why Travelstart, for example, is able to get a fare not available to other agents;

5.6.6.2.3. It is also not a problem that is unique to SAA and a reality for all airlines that price in accordance with O&D principles relating to revenue management. It is a threat faced by the industry;

5.6.6.2.4. Mr Brewis suggested that the focus should be on combating the practice, as there are technologies on the market that are available and are being used by certain competitors effectively. However there are certain constraints to implementation.

5.6.6.3. The constraints to implementation

5.6.6.3.1. Mr Brewis suggested that the following constraints impinge on the successful implementation of a combative solution:

5.6.6.3.2. These constraints include for example:

5.6.6.3.2.1. There is no permanent HOD to take charge of the process and oversee its successful implementation. Based on our initial findings managements comments are that a substantive HOD, Mr Jerome Simelane was appointed in April 2017;

5.6.6.3.2.2. The current acting position has several components reporting to it so capacity becomes a serious inhibitor;

5.6.6.3.2.3. There are costs associated with the implementation of the applications / available technology. Current estimates suggest the cost averages three Euro cents per boarded passenger. In the absence of required data, it is difficult to successfully present a cost vs. benefit business case;

5.6.6.3.2.4. Additional resource requirements would be a further constraint, particularly taking into account SAA's moratorium on staff recruitment and restructuring processes;

5.6.6.3.2.5. There needs to be cohesion between the various relevant Departments within SAA for a successful implementation;

5.6.6.3.2.6. Access to data and enhancing the ability to interrogate data further is an imperative.

5.6.6.4. Tickets issued by Agents and OTA's

5.6.6.4.1. Agents issuing tickets that do not respect the fare rules (i.e. reservation, ticketing time limits, breaking sectors etc) are a source of revenue leakage. This is when the real coupon value in Revenue Accounting does not align with Revenue management expectations; and

5.6.6.4.2. The potential revenue leakage as a result of ticket reservation related errors could not be quantified. Management's intention is to expand the ZeroOcta audit to include reservation transgressions on a cost recovery basis.

5.6.6.5. Recommendations

5.6.6.5.1. It is our understanding that technology exists to combat the exposure to SAA. In this regard. Implementation of a fully operational system would not only assist in combatting the types of abuse that SAA is exposed to, but the system could also further optimize seat availability opportunities and thereby maximize revenue potential;

5.6.6.5.2. Although we have been unable to verify the impact of this issue, it has been communicated that according to industry experts, potential additional contribution to revenue could be between one and three percent by implementing the available technology on the market. There is however a cost associated with such implementation; and

5.6.6.5.3. In view of the potential contribution, SAA should conduct a detailed cost vs. benefit study to establish the feasibility of implementing the requisite technology.

5.6.7. Ancillary revenue

5.6.7.1. Based on IATA (namely the STAR Alliance Revenue Accounting Working Group discussions in Barcelona, Spain in September 2015) and Star Alliance statistics, it is our understanding that the industry average for ancillary revenue is approximately US$16 per passenger. The US$16 per passenger includes the following four revenue streams:

- A la carte services
- Commissions based
- Revenue from Frequent Flyer Programs (FFP'S) and
- Marketing initiatives.

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5.6.7.2. According to calculations provided by Mr Mellett, SAA's ancillary revenue for the year to 31 March 2016 was R560 651 999; this translates to US$6.21 per passenger (see table 1 below). This calculation however excludes FFP's. Including FFP's the ancillary revenue per passenger is US$10.47 (versus US$16 per passenger) as at March 2016;

5.6.7.3. Based on our initial findings management's comments are that SAA currently only reports ancillary revenue using A la Carte and Commission based ancillary products. Voyager is not currently reported as an ancillary revenue stream due to the design of the programme and its strategic relevance to SAA;

Table 1: Ancillary revenue per passenger excluding FFP

Details	**Income statement 31 March 2016**
Total excess baggage turnover	R204.7m
Sales office misc income	R347.7m
Cancellation and Acc revenue	R8.3m
Total assumed ancillary revenue	R560.7m
Total revenue passengers per Manacc	6 698 176
ZAR Value per Revenue passengers	R83.70
USD Value per Revenue passengers	USD6.21

Table 2: Ancillary revenue per passenger including FFP

Period	Ancillary rev per pax excl FFP	Ancillary rev per pax incl. FFP
2015/16	US$6.12	US$10.47
2016/17	US$7.38	US$10.83

5.6.7.4. By implementing initiatives to improve the current recovery rate by just 50% to US$9.31 per passenger, which is still relatively conservative, compared to the industry average of US$16 per passenger, a calculation prepared by Mr Mellet demonstrates potential ancillary revenue generation of R840, 977,998. This translates to additional potential revenue of **R280, 325,999** (R840, 977,998 less R560, 651,999) that could potentially be earned;

5.6.7.5. If it were possible to reach the industry average of US$16 per passenger, this would translate to potential revenue to be earned from ancillary income of R323, 701,281, based on calculations prepared by Mr Mellet;

5.6.7.6. Currently SAA's target is to grow ancillary revenue to US$10 by the 2019/20 financial year;

5.6.7.7. According to Mr Mellet, initiatives embarked on in this regard fell through following the resignation of the official appointed to lead this exercise. No steps have been taken to revitalize this initiative by appointing an appropriate head to take charge. Based on our initial findings managements comments are that a substantive HOD for Ancillary Revenue (Mr Jerome Simelane) was appointed in April 2017;

5.6.7.8. In order to improve the ancillary revenue per passenger SAA has identified and continues to implement opportunities to improve and market its current ancillary product offering. The following new revenue streams have been identified to generate additional ancillary revenues most of which will be implemented in or at the end of the 2016/17 financial year including:

- Chargeable seats
- Purchasing excess baggage online
- Charging for business class lounge access
- Selling duty free online
- Global car rental and
- Global hotel commission.

5.6.7.9. Management informed us that many such revenue optimisation opportunities have since been implemented in the 2017/18 financial year and are being aggressively marketed through various media channels with a resultant growth in ancillary revenues;

5.6.7.10. At SAA the ancillary revenues received post-sale, even from flight-related services like baggage and seat upgrades, are difficult to tie back to the actual passenger revenue from the airfare. For example where services are shared between two airlines on a particular O&D, that also has an impact. Electronic Miscellaneous Documents (EMDs) were introduced in response, but many airline systems including SAA's are lagging behind, depriving themselves of a good access into the breakdown of sales, and lacking the ability to analyse and optimise ancillary revenue; and

5.6.7.11. Concerning the marketing initiatives, which is one of the four ancillary revenue streams, there are opportunities for SAA to improve ancillary revenue by looking to upgrade the current aged Inflight Entertainment System (IFE) and introduce marketing through this area..

5.6.8. OR Tambo as a Hub for all international flights

5.6.8.1. SAA uses OR Tambo as its hub to the domestic market, regional market and international market;

5.6.8.2. Along with Mango, Comair, South African Express, Airlink and Safair, OR Tambo is used as their hub into the domestic market and regional market (those that operate regionally);

5.6.8.3. Based on the business operations of the South African domestic market, it would be counter-productive for National Government through the Department of Transport to approve foreign airlines licenses to fly from their origination airport outside of South Africa into airports in South Africa, other than OR Tambo;

5.6.8.4. According to the table 21 below, for a 12 month period up until April 2016, several airlines had licenses to fly into and fly out of South African Domestic Airports ferrying 247,204 passengers into and out of South Africa, and all these passengers effectively not contributing to the Domestic airline market:

OnD	Destination	Airline	2015	2016
CPTAMS	Amsterdam	KLM	24,850	27,507
CPTCDG	Paris	Air France	5,871	6,561
CPTDOH	Doha	Qatar	14,224	21,336
CPTDXB	Dubai	Emirates	67,200	84,000
CPTFRA	Frankfurt	Lufthansa	4,970	5,229
CPTIST	Istanbul	Turkish	3,780	9,754
CPTLGW	Gatwick	BA		1,139
CPTLHR	London	BA & Virgin	54,619	40,103
CPTMUC	Munich	Condor	8,558	9,883
DURDXB	Dubai	Emirates	33,600	33,600
DURIST	Instanbul	Turkish		8,092

Above : Table 21: Foreign airline passenger numbers where access to domestic airports has been granted by the Department of Transport

5.6.8.5. Using an average fare of R3,000 per return trip between OR Tambo and Durban and OR Tambo and Cape Town, and the number of passengers that did not travel on the South African Domestic Airlines, the revenue lost by the South African Domestic Market is in the region of R742 million. A majority of the revenue generated would be through foreign currency; and

5.6.8.6. In addition to the Domestic Airline Market being supported, this would also introduce an additional 247,204 passengers through OR Tambo thus generating additional income for the businesses situated within OR Tambo.

5.6.9. SAA Commercial Department

5.6.9.1. According to the LTTS SAA (Commercial Department) aims to improve its revenue streams by:

5.6.9.1.1. Increased asset utilization;

5.6.9.1.2. Increased frequencies and new routes;

5.6.9.1.3. Improved customer service; and

5.6.9.1.4. Increased productivity of staff.

5.6.9.2. The appointment of a permanent Chief Commercial Officer and other senior staff, and investment in the right IT tools is critical in achieving the intended revenue growth;

5.6.9.3. It has been intimated that the management of SAA are reacting too slowly in fulfilling the dire need for critical skills within the operational units at SAA. There are considerable pressures imposed on those currently trying to fulfill and carry out the duties and responsibilities of those employees who are no longer in the employ of SAA or currently on suspension (for whatever reason) and that these critical positions remain vacant for extended periods of time;

5.6.9.4. A particular example provided is where Mr Sylvain Bosc – Chief Commercial Officer ("Mr Bosc") was suspended in November 2015, while other existing staff members have been handling his responsibilities since that time, in addition to performing their own daily responsibilities. It appears that this will continue to be the case until the formal disciplinary proceedings are concluded in respect of Mr Bosc's suspension, and currently it is uncertain as to when this process will be finalised;

5.6.9.5. The staff resources (particularly within critical business processes and cycles within SAA) do not appear to be commensurate with requirements of the roles and responsibilities of certain Departments. Our interviews have brought to the fore that many key staff members are unable to effectively carry out their routine daily

responsibilities as they are currently being tasked with taking on two to three other former employees' tasks on a day-to-day basis;

5.6.9.6. As discussed elsewhere in this report (regarding the business case motivations submitted by Mr Mellett to the CFO on 27 May 2015 and 6 October 2015 respectively), additional staff resources within the Revenue Accounting Department are desperately needed to assist with the fare, tax and refund audits, interline transaction audits, monitoring and following up of anomalies identified from the analyses contained within transaction exception reports generated within the revenue cycle and APRA. SAA is suffering substantial losses due to insufficient resources ensuring that these exceptions can be adequately followed up, revenues recovered and preventative measures being put in place to mitigate risks identified in the ordinary course of business at SAA;

5.6.9.7. Many Departments appear to be understaffed while others (such as HR – are allegedly overstaffed – there are 285 HR members);

5.6.9.8. A particular criticism that has been raised (in respect of adequate staffing resources) is that although numerous critical operational functions remained under/inadequately staffed, and contrary to the moratorium regarding putting a hold on fulfilling any and all employment vacancies, that somehow the HR Department has recently successfully employed three new hires in their Department.

5.6.9.9. There are alleged double standards when it comes to adhering to policies implemented at SAA and that certain employment decisions are possibly being made to the detriment of the SAA group.

5.7. APRA (Amadeus) revenue system

5.7.1. APRA (Amadeus) system implementation

5.7.1.1. Based on information gathered from the interviews and documentation from, Mr Mellet presented to the CFO, the Amadeus Passenger Revenue Accounting ("APRA") system was implemented 1 May 2015. Previously SAA used RAPID, which was implemented in 2006. Closure of Phase I implementation of APRA was expected middle of January 2016 but this has not been entirely achieved.

Phase I included sales, flown, interline and reference tables/interline billing verification functions. Refunds, accounting control and agent sales audits are not directly affected. APRA Phase II will allow for own and GSA sales audits and enhancement of interline audits.

5.7.1.2. APRA incorporates the following functions:

5.7.1.2.1. Sales processing – SAA ticket stock is accounted for at the time of sales and reflected as Air Traffic Liability and Ticket Tax liabilities;

5.7.1.2.2. Flown (revenue recognition) – SAA tickets and foreign airline tickets that are 'uplifted' for passengers boarding SAA flights are recognized as revenue. There is a recovery of foreign airline tickets sold through ICH;

5.7.1.2.3. Interline processing – this involves 'Inward billings' for SAA airline tickets 'uplifted' for passengers boarding foreign airline flights & 'Outward billings' are for foreign airline tickets 'uplifted' for passengers boarding SAA flights;

5.7.1.2.4. Ticket refunds – involves passengers requesting a refund before flight commences or after flight date if partly or not used in full;

5.7.1.2.5. Agent sales audit – SAA currently utilizes an outsourced fare and tax audit service provider to verify accuracy of ticket issuance; and

5.7.1.2.6. Expired tickets – in accordance with the revenue recognition accounting policy unutilized passenger tickets are released as revenue based on validity of ticket time lines for utilization. The prescribed periods are - domestic 6 months from date of first travel / regional and international tickets are 12 months from date of first travel.

5.7.1.3. The most significant issues not yet resolved and which are causing delay in the Phase I close out are:

5.7.1.3.1. System reconciliation of advance sales, including ticket taxes not yet finalized. Errors are being identified on a daily basis since 1 March 2016 and corrections are being tracked. According to a report from Mr Mellet as at the end of March 2016 the total errors un-reconciled, amounted to **R194 million** (RAPID processing adjustments);

5.7.1.3.2. Interline processing is being affected by invoices not loaded by Amadeus; and

5.7.1.3.3. Task clearing is not yet at an acceptable level due to system errors that are preventing all tasks from being cleared for sales and flown. In respect of interline, not all tasks loaded are available after each billing period.

5.7.1.4. According to Mr Mellett, Amadeus is committed to resolving these system reconciliation issues and the sales and flown related errors. The Interline processing deficiencies are a significant cause for concern at SAA and an area that must be highlighted as a high-risk area, which requires detailed attention;

5.7.1.5. Phase II implementation of APRA is critical as it involves revenue protection initiatives that SAA need to activate in order to minimize revenue leakages;

5.7.1.6. Whilst the full amount of **R194 million** referred to above does not translate into potential additional revenue, as adjustments would simply be re-allocated to the correct route revenue account, there are system inefficiencies that need to be addressed to limit losses being incurred in this regard. An example would relate to the fact that ticket fares filed are sometimes less the prorated income attributable to SAA as a result of interline agreements. There needs to be better synergy between ticket pricing and terms of the interline agreements to avoid losses in this regard.

5.7.1.7. We attempted to quantify potential losses in this regard, but the lack of suitable and availability of appropriate reports precluded us from doing so.

5.7.2. Amadeus – distribution costs

5.7.2.1. Although Amadeus appears to be maximizing certain efficiencies within SAA operations, there are still a number of areas where the capabilities of the software and licenses are not being utilized to their full potential. It has been brought to our attention that certain modules within Amadeus have been 'switched off' as the various reports are costing SAA either monthly report charges, or transaction-by-transaction charges.

5.7.3. Annual software license fees paid to Amadeus

5.7.3.1. According to SAP information provided by Ms Archary (Manager Accounting & Recon Control) the annual software license fees paid to Amadeus for the last financial year (2016) were R10, 179,033 (US$693,625).

5.7.4. APRA - Amadeus exceptions reports

5.7.4.1. Revenue leakage takes place in this area, as SAA does not follow up on valuable exception reports from the Amadeus system. These various reconciliation reports or transaction review data downloads have been 'put on hold' until such time that SAA has sufficient staffing resources to react to the exception reports and follow up revenue leakage issues highlighted by these reports. This needs to be highlighted as a high-risk area requiring the Board's urgent intervention, as the revenue leakage is material and a significant cause for concern.

5.7.4.2. Reports generated from APRA real time data by the SAA IT Department, are not yet at an acceptable level. Mr Mellett has prioritized the following reports for finalization:

5.7.4.2.1. All daily ticket sales (SAA and other airlines marketing flights). The voluminous data needs to be available in a manageable format so that VAT compliance issues in respect of SA Express and Airlink sales can be addressed, in addition to facilitating the cash neutrality calculations that need to be performed. The report format should also

ensure that the credit card commission deductions can be verified and the credit card commissions applicable to SA Express and Airlink sales can be recovered each month. Currently there is an estimated percentage recovery on commissions from SA Express and Airlink;

5.7.4.2.2. Revenue Accounting control reports to assist with the clearing of new APRA reconciliations;

5.7.4.2.3. Flown reports to be verified and enhanced where possible; and

5.7.4.2.4. Interline reports to be verified and enhanced where possible.

5.7.4.3. There are significant savings that could be made by effectively monitoring these reports and reacting in a timely manner to recover fees from agents, etc. At the date of our report key personnel could not give an indication as to the quantification of probable losses due to the inefficiencies within Amadeus;

5.7.4.4. We have identified instances that point to possible overriding of controls, which may compromise the integrity of the accounting for all revenue through the Amadeus system;

5.7.4.5. There are opportunities for SAA to implement certain actions to improve revenue management and sales efforts. This will require additional investment in people with the proper skill sets to implement.

5.8. InterVistas – fleet/network planning

5.8.1. We obtained and reviewed a copy of the South African Airways Comprehensive Network and Fleet Plan; final report dated March 2015 - as prepared by InterVistas for use by SAA management. This Network and Fleet Plan was designed to determine the earnings potential of SAA as at March 2015 and indicated that SAA could return to profitability by 2017, based on '*earnings on an operating basis, reflecting a go-forward run rate*." It did not include any one-time financial adjustments required due to the disposal of aircraft or closure of routes;

5.8.2. The key findings (paraphrased from the executive summary to that report) at that time were that:

5.8.2.1. SAA had the wrong wide body fleet given the prevailing economic and competitive environment. It was determined that SAA had not taken steps to replace the inefficient A340 aircraft that formed the bulk of their fleet;

5.8.2.2. The SA domestic market and certain regional markets were suffering from excess capacity;

5.8.2.3. There was a lack of single point decision making on the SAA network for the Johannesburg hub for the SAA Group; and

5.8.2.4. Mango had failed to capitalise on growth opportunities, which existed in both the domestic and regional markets.

5.8.3. As at the time of preparing this report, we have yet to critically review this Network and Fleet Plan as prepared by InterVistas and have not met with the authors of this strategic document to discuss the rationale or approach followed when performing the calculations or determinations included therein;

5.8.4. It should be noted that InterVistas is an international firm who had quoted considerable reimbursement of time and costs to meet with our team and discuss their report and consequently the cost versus benefits of this exercise precluded our team from interacting directly with InterVistas;

5.8.5. It is further noted that although these reports are regularly prepared for use by SAA management for their decision making purposes and that data and flight efficiency analyses are made available for management's review, it remains the Group management teams' responsibility to propose, authorise and implement any prospective route or fleet composition changes. We are aware of alleged manipulation of certain reports by former members of the SAA management team that resulted in sub-optimal decisions being implemented in respect of new routes being pursued while other routes or code share agreements were cancelled. These decisions, *inter alia*, have led to considerable financial losses for SAA and although disciplinary action has been instituted in some cases, SAA has suffered and possibly continues to suffer financial loss due to incorrect decisions being made in this regard;

5.8.6. Based on discussions with senior management of SAA (Ms Du Preez and Mr Du Plessis), the critical area of network and fleet planning is continually monitored and discussed at an operational level within SAA. This operational function is paramount to the success of SAA and requires significant expertise and knowledge of the entire airline industry, from a local, regional and international perspective. We have received the 2nd Quarter FY2016/17 report as presented to National Treasury, which details the proposed strategic steps to be implemented and progress reporting on initiatives taken with regards to this area of the business. We have not however received the attached annexures to this report which provide more clarification and detail in this regard;

5.8.7. As conveyed above, to date, we have not carried out an independent detailed review of these reports or the Comprehensive Network and Fleet Plan prepared by InterVistas, to determine whether the strategy set out by the SAA Board is in compliance with the Long-Term Turnaround Strategy. We have yet to document a high level summary of all the suggested network route changes, route and network profitability, and fleet recommendations to determine if SAA implemented such recommendations.

5.9. Star Alliance contract

5.9.1. Overview

5.9.1.1. SAA joined the Star Alliance in 2005. SAA has evaluated the benefits received from membership. However although these benefits are substantial it has been alleged that SAA is not extracting the full potential value of its membership and losing a significant amount of revenue each year. It needs to be fully understood by the Commercial Department which benefits are not being optimized or received not just from the Star Alliance membership but including the code share agreements.

5.9.1.2. The key issues that need to be considered by the Commercial Department include the following:

5.9.1.2.1. The benefits received;

5.9.1.2.2. The costs paid each year; and

5.9.1.2.3. Annualized savings of cancelling certain Code shares.

5.9.1.3. On 19 October 2016, Mr Munetsi stated that:

5.9.1.3.1. The Star Alliance contract is a global branded alliance mainly working with major sponsors;

5.9.1.3.2. A few years ago SAA partnered with Delta Airlines as they did not fly into Africa;

5.9.1.3.3. SAA's performance in the USA is declining because United Airlines is not motivated to support SAA, and United Airlines has chosen not to provide access to seat inventory or acceptable pro-rates. Over time, this has affected SAA's ability to connect traffic via United Airlines' hub in Washington Dulles.

The agreement with United Airlines needs to reviewed and re-negotiated;

5.9.1.3.4. Lufthansa have formed a Star Alliance Plus to control Trans-Atlantic traffic;

5.9.1.3.5. Emirates are not part of the Star Alliance. This gives Emirates the latitude to decide who they partner with at any time; and

5.9.1.3.6. There is a substantial exit fee of approximately US$25 million should SAA decide the exit Star Alliance'.

5.9.2. **Code share agreements**

5.9.2.1. Apart from its Star Alliance membership, SAA has an extensive network of non-metal capacity via code share agreements with Star Alliance and Non-Star Alliance members;

5.9.2.2. Under this type of agreement, airlines are able to sell seats (marketing airline) on flights operated by its code share partner (operating airline). As a general principle, the operating carrier collects the passenger fare of the sector it operates, but returns a portion of the ticket revenue to the marketing carrier. A code share agreement typically offers a higher service level for passengers

through coordinated schedules and a more seamless and integrated transfer product, as code share partners try to maximize the revenues.

5.9.2.3. Different types of code share agreements exist, such as:

5.9.2.3.1. Two carriers both operate the same sector and each gives its code to the other's operated flights;

5.9.2.3.2. A carrier puts its code on a sector operated by another carrier, but not by itself, and not (necessarily) connecting to one of its own operated flights; and

5.9.2.3.3. Behind and beyond route: a carrier puts its code on sectors, operated by another carrier, to provide connections with its own operated services.

5.9.3. Review of Star Alliance Agreement

5.9.3.1. The original Star Alliance agreement was entered into by members on 30 March 2001;

5.9.3.2. We obtained and reviewed an Agreement dated 1 January 2015 (subsequent amendment). The following is noteworthy:

5.9.3.2.1. SAA joined Star Alliance in April 2006;

5.9.3.2.2. In accordance with the agreement upon SAA's acceptance for integration into Star Alliance an amount of **Euro10 million** was paid to Star Alliance in accordance with Section 3.3(b) and specified in Exhibit A;

5.9.3.2.3. The agreement exists indefinitely unless Star Alliance is dissolved;

5.9.3.2.4. A withdrawal or exit fee of **USD25 million** is payable including a 2 year notice period, should SAA want to withdraw or exit from Star Alliance;

5.9.3.2.5. The withdrawal fee is the amount payable by a member withdrawing from Star Alliance in accordance with Section 7.1 and is specified in Exhibit A;

5.9.3.2.6. The exit fee is payable by a member expelled from Star Alliance in accordance with Section 8.1 or 8.2 and specified in Exhibit A;

5.9.3.2.7. SAA is subject to an audit of its compliance with its membership obligations annually either by an audit performed by Star Alliance Services GmbH or by itself (self-audit) where it has been selected for an audit by the Alliance Management Board **(**Self-audit - means a self-audit by a member of itself for compliance with its Membership Obligations pursuant to Section 10.2(a) and more particularly described in the Core Values Handbook);

5.9.3.2.8. The consequences of non-compliance to audits are detailed in Article 10.3 and specifically:

"(a) The CEB shall, upon presentation of a Compliance Report, take note of any noncompliance by a Member with any Standard; (b) In the event that, at the Chief Executive Board (CEB) meeting, a Member remains non-compliant with a Standard noted in the immediately preceding Compliance Report, that Member shall be liable to pay to the other Members, or as otherwise directed by the CEB, an amount equal to five percent (5%) of its share of Star Alliance costs under the standard cost sharing formula for that Fiscal Year provided that in the event the non-compliance is remedied within the first six (6) months of the following Fiscal Year that amount shall be returned to that Member, and a Member shall be so liable for each and every such non-compliant Standard noted in the immediately preceding Compliance Report

subject to a maximum amount equal to its share of Star Alliance costs under the standard cost sharing formula for that Fiscal Year and subject further to the proviso that the payment of any foregoing amount to a Member shall not exceed its share of the annual contribution to the Star Alliance costs for that Fiscal Year, any such amount in excess to be paid to the other Members corresponding to the percentage share of Star Alliance costs of such other Members under the standard cost-sharing formula.

(c) In the event that, at the CEB Meeting, a Member remains non-compliant with a Standard noted in the two immediately preceding Compliance Reports, the CEB may, having regard to all relevant considerations, resolve to expel that Member pursuant to Section 8.2(c)."

5.9.3.3. The costs of Star Alliance ("Star Alliance Costs") are shared and paid by all members in accordance with their relative size, and are calculated by multiplying the relative size of each member by the total amount of Star Alliance costs; and

5.9.3.4. It is alleged that SAA has had non-compliance issues in recent Star Alliance audits and is at risk of materially breaching, Article 10.3 (Compliance with Membership Obligations) of the Star Alliance agreement. We could not meet with Ms Matshego to discuss and perform a detailed review into these allegations. We had scheduled a meeting with Ms Matshego to discuss the Star Alliance Contract. However the meeting was cancelled and Ms Matshego informed us that she needed to have the CEO and CCO approval to meet with us.

5.9.4. InterVistas findings regarding Star Alliance

5.9.4.1. We obtained and reviewed the InterVistas report dated March 2015, which was issued to SAA:

5.9.4.1.1. Description of Airline alliance relationships and partnerships

"*An airline alliance is a form of commercial cooperation between airlines with the goal to increase the global reach and market penetration required to satisfy the business/corporate customer base that is essential for profitability.*"

5.9.4.1.2. InterVistas noted that many SAA codeshare agreements with other parties are structured to favour the partners at the expense of SAA (the agreement with Lufthansa is a notable exception which is a major reason for the strong performance of SAA flights to Germany).

5.9.4.1.3. Not all airlines will enter into an extensive relationship without conditions or negotiations and not all codeshare agreements are beneficial. Agreements that are beneficial to both airlines and expand the network and market penetration of each airline in a substantial manner are typically more easily negotiated, than when both airlines, have overlapping networks. In the case that there is a strong overlap in network, or the envisaged partner airline already has a strong presence in a particular market, these markets are typically excluded from the codeshare agreement. Excluding markets from the codeshare agreement can have an unfavorable effect on the feasibility of the partnership, as certain flows are essential to attain positive results."

5.9.4.1.4. The InterVistas report issued to SAA states the following (extracted from InterVistas report dated March 2015):

"SAA is currently a member of Star Alliance and has multiple codeshare agreements with a number of airlines. Not every relationship, whether under the Star Alliance umbrella or not, is the same. The analysis of alliance potential is easy. Achieving it in practice is a function both of the working relationship between carriers and the negotiated agreement between the two carriers (no agreement that involves revenue or network is done on the Global Alliance—Star—level) that involves code-sharing, pro-rate levels for joint fares, access to seat inventory for connecting passengers, joint sales efforts, etc. As such, we can see that the SAA relationship with Lufthansa is extremely beneficial and is a key reason why SAA is able to achieve profitability on its flights to Germany. But, in the case of United Airlines, also a Star member, it has chosen to not provide access to seat inventory or acceptable pro-rates. Over time, United's actions have damaged SAA's ability to connect traffic via United's hub in Washington Dulles. It is very likely that United's actions stem from its deepening relationship with Lufthansa. United and Lufthansa have an integrated JV which involves traffic flowing between the USA and Africa. As such, while SAA performance in Germany is strong, its performance in the USA is declining because its Star alliance partner in the USA is not motivated to support SAA."

"Thus, all analyses below are with respect to the most likely opportunity. In order to achieve these results, a comprehensive agreement must be put in place before any actions are taken (whether code-sharing or new flying). These agreements must be beneficial to both parties and ensure that the incentives are aligned to ensure that both parties are working together rather than at cross-purposes. In some cases, it may be beneficial to go beyond

a codeshare alliance relationship to a JV. Usually a JV ensures that all earnings are shared providing both sides with an incentive to grow the business and ensure profitability. Many SAA alliance agreements in place are not well designed to provide benefits that flow to SAA. Many of these are one-sided so that SAA takes all the risk and gets none of the upside."

5.9.4.1.5. Numerous scenarios were created between InterVistas and SAA. It is important to understand that there are two key components that drive the upside potential of the opportunities being analysed.

a) *"The size of the local market and its composition matters. For example, Frankfurt with its large local market to South Africa and the sizable component of business traffic (which pays the high fares that support profitable wide body operations) will always look better than other European cities even if they have a hub with many connections.*
b) *The connecting traffic that is captured because the combination of two networks allows for a routing that did not previously exist. Generally, the largest traffic points drive the bulk of connecting value (for example, in the USA the top 20 connecting points drive 90% of the traffic and thus every major US hub looks the same in terms of what connections it can capture)."*

5.9.4.1.6. To assess the potential earnings improvements resulting from new partnerships with different airlines, seven partnership and codeshare scenarios were evaluated by InterVistas with SAA management.

5.9.4.1.7. The various scenarios and their financial impact are presented in the tables below:

Scenario presented in Intervistas report	Partnering airline	Gateway	Equipment on SAA operated flights	Potential annual incremental system profit impact (R million)
1	Etihad	Abu Dhabi	A330-200	(346.9)
2a	Emirates	Dubai	A330-200	170.8
2b	Emirates	Dubai	A340-600	123.1
2c	Emirates	Dubai	A330-200	181.0
2d	Emirates	Dubai	A330-200	(265.5)
3	TAP Portugal	Lisbon	A330-200	336.3
4	Virgin Australia	Sydney	A340-300	246.6

Above **:** *Table 22: Potential Annual Incremental Impact of Partnership Scenarios on SAA System Profits Requiring Additional SAA Flights Scenario*

(Ex: InterVistas report)

Scenario presented in Intervistas report	Partnering airline	Gateway	Potential annual incremental system profit impact (R million)
5	Egypt Air	Cairo	31.9
6	Cathay Pacific	Hong Kong	88.5
7	Turkish Airlines	Istanbul	50.7

Above : Table 23: Potential Annual Incremental Impact of Partnership Scenarios on SAA System Profits Not Requiring Additional SAA Flights Scenario

(Ex: InterVistas report)

5.9.4.1.8. "*In addition, not all of the scenarios may be compatible due to conflicting partner airline interests. For example, Scenarios 1 and 2 with Etihad and Emirates respectively are likely incompatible with each other. A decision to create an alliance with Etihad could jeopardise the existing SAA revenue base generated from its partnership with Emirates. TAP Portugal may not agree with the codeshare relationship as suggested in Scenario 3. In this case, SAA will be reliant on the traffic flows from Angola and Mozambique and consequently may draw part of this traffic flow away from TAP Portugal. Also, a potential partnership with Turkish Airlines, as described in Scenario 7, may put SAA's current relationship with Lufthansa at risk, as these carriers are competing for the same connecting global traffic flows and would not be compatible with an SAA partnership with either Emirates or Etihad.*

5.9.4.1.9. *It is important to note that:*

5.9.4.1.9.1. *Scenarios where new SAA flights are introduced as part of the partnership need to recognize the current fleet constraints. At present, there are limited wide body aircraft (only A340-600) available and;*

5.9.4.1.9.2. *Reassigning the preferred aircraft types, as identified above, from other SAA routes may affect overall system profitability.*

5.9.4.1.10. *All in all, the actual earnings generated by airline partnerships will be dependent upon a properly constructed agreement with the airline partner providing common incentives and access to*

affordable pro-rates and seat inventory on partner routes."

5.9.4.2. North American Alliance issues

5.9.4.2.1. During our interview with Mr Munetsi he raised the fact that the North American alliance with United Airlines needed to be urgently reviewed.

5.9.4.2.2. According to InterVistas, all the economic benefits from Star membership are achieved through bilaterally negotiated agreements with member carriers. SAA has a favorable bilateral with Lufthansa, but does not with United which is one of the key reasons for the deteriorating performance on USA routes. The United-Lufthansa Trans-Atlantic Joint Venture includes Africa and United has been aggressive in steering traffic off SAA and on to Lufthansa.

5.9.4.2.3. As such, an analysis was performed to determine whether shifting alliances in North America might have value for SAA as compared to the current depressed baseline with United. No determination has been made as to whether such a shift is even possible and a key factor limiting such shift is to ensure that the SAA-Lufthansa alliance is not harmed;

5.9.4.2.4. SAA's USA performance, particularly in Washington DC, has deteriorated noticeably over the past few years. While there are many factors that could be the cause, it has become clear to SAA that the alliance partnership with United Airlines (operates a major hub in Washington Dulles which is key for the success of SAA flights to that city) is not working. A factor in this may be that United has a joint venture with Lufthansa and the USA-South Africa market is included in this joint venture. Other factors could be responsible (such as lack of country sales focus, a

failure to capture US origin corporate contracts, the impact of the recent Ebola) outbreak, but it is clear that the United relationship is not delivering and connecting traffic via Washington DC has declined;

5.9.4.2.5. Given the poor performance, SAA management requested that InterVistas analyse alternatives to United. Only two other USA airlines have major east coast hubs that could provide the network feed required too support, SAA's flights to South Africa. It is important to recognize that each alternative alliance may have issues that would prevent a relationship with SAA.

5.9.4.2.5.1. American Airlines (which is merging with US Airways) has a Trans-Atlantic Joint Venture with British Airways. InterVistas believe this Joint Venture may include the USA-South Africa market. Thus, it is unclear if American would be willing or able, to partner with SAA and even if it did, the Joint Venture may cause American to exhibit the same behavior regarding SAA as that of United.

5.9.4.2.5.2. Delta Airlines is the only US airline to operate its own flights to South Africa (non-stop from its Atlanta hub). In addition, it has its own Trans-Atlantic Joint Venture with Air France/KLM, which includes the USA-South Africa market. Thus, it is unclear whether Delta would be willing or able to enter into an alliance with SAA. The fact that Delta operates its own flights to

Johannesburg makes a partnership with SAA less likely.

5.9.4.2.6. Three scenarios were developed for analysis:

5.9.4.2.6.1. Scenario 1: Codeshare with American / US Airways at Philadelphia

5.9.4.2.6.2. Scenario 2: Codeshare with American / US Airways at Miami

5.9.4.2.6.3. Scenario 3: Codeshare with Delta at Atlanta."

5.9.4.2.7. The various scenarios and their financial impact are presented in Table 22 below

Scenario presented in Intervistas report	**Partnering airline**	**Gateway**	**Potential annual incremental system profit impact (Rm)**
1	Codeshare with American / US Airways	Philadelphia	298.5
2	Codeshare with American / US Airways	Miami	243.10
3	Codeshare with Delta	Atlanta	106.80

Above : Table 22: Potential Incremental Impact of SAA Entering Codeshare Partnership Agreements With American / US Airways and Delta

(Ex: InterVistas report)

5.9.4.2.8. "*While this analysis show that partnering with either American / US Airways or Delta appears to be more favorable than the current status quo with United Airlines, the findings should be treated as potential value, not a firm forecast. Achievement of benefits requires a carefully constructed agreement, which provides SAA with access to seat inventory and affordable pro-rate levels, plus a sales incentive*

*structure designed to benefit both parties to the exclusion of others. It is unclear whether American (an **one**world member with a Trans-Atlantic Joint Venture with British Airways) or Delta (Sky Team member) will consider a bilateral alliance with SAA.*

5.9.4.2.9. Thus, while potential has been identified which suggests that a negotiation with American Airlines and/or Delta Air Lines should be pursued, one cannot determine how much value can realistically be achieved in the absence of negotiation. No improvement numbers have been included in this report that could result from shifting alliances in North America."

5.9.5. InterVistas recommendations

5.9.5.1. The Commercial Department should urgently seek to implement the recommendations made by InterVistas namely:

5.9.5.1.1. Pursue negotiations with American Airlines and/or Delta Air Lines for the North Americas;

Management's comment

The Alliances Department met with American Airlines with the aim of improving the interline agreement and agreeing on a strategy to formulate to codeshare partnership. The codeshare agreement was dependent on SAA commencing operations to Miami. Subsequently SAA did not start operations to Miami, however the SPA with AA was renegotiated and improved.

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5.9.5.1.2. Review and consider alternatives to the alliance partnership with United Airlines in order to improve connecting traffic via Washington DC;

Management's comment

Due reduced United Airlines support, alternatives implemented are to codeshare with Jet Blue (B6) out of both IAD and JFK. This has yielded positive results.

5.9.5.1.3. Optimize code share partnerships;

Management's comment

Optimisation of codeshare partnerships is ongoing in respect of all markets. New codeshares are currently being negotiated with, Avianca, GOL, KQ. Enhancements under negotiation are with: EK, ET, MK, HM.

5.9.5.1.4. Execute a codeshare alliance with Cathy Pacific on the Johannesburg-Hong Kong route for SAA to gain access to the greater China and Northeast Asia market. This will result in incremental revenue of R334 939 260;

Management's comment

Deep dive analysis completed in 2016 identifying challenges on HKG route and CX overture made with no tangible outcome. Discussions with Hong Kong Airlines held and the interline relationship was improved allowing access to China, Japan. Enhanced codeshares with Asiana (Korea) and All Nippon (Japan).

5.9.5.1.5. Focus on reducing revenue share gap with pricing, revenue management and sales actions; and

Management's comment

The implementation commenced in May 2017 as part of the recommendation from Seabury by the Revenue Management and Pricing Department.

5.9.5.1.6. The Board should implement the recommendations that result in potential incremental revenue to SAA.

5.10. Voyager - Loyalty awards program

5.10.1. Based on discussions with Mr Birch, SAA Voyager is currently reported and disclosed as a division of SAA SOC Limited. The accounting for customer loyalty awards is reported in terms of International Financial Reporting Interpretation Committee note 13 ('IFRIC 13 – Customer Loyalty Programmes'). Awards on SAA account for the majority of miles redeemed by members on an annual basis accounting for 69% of total miles redeemed. The remaining 31% of miles are redeemed third party air and non-air programme partners that SAA relies on to provide awards;

5.10.2. IFRIC 13 clarifies that when credits are issued as part of a sales transaction that the consideration received for the transaction needs to be allocated between the award credits issued and the other components of the sale transaction;

5.10.3. The consideration should be allocated to the goods or services initially provided and to the miles, based on their fair value. Fair value is defined as the amount that the miles could be sold for on a stand-alone basis. The consideration allocated to the miles should be presented as deferred revenue on the balance sheet and should be released to the income statement when the miles are redeemed on a third party programme partner, redeemed and the service has been provided on SAA or the miles expire;

5.10.4. Currently, reports are received by the Voyager division on a monthly basis, reflecting all tickets sold and flown in the month, as well as the number of miles earned per ticket. This report is entirely automated and is received by the Voyager division, to ensure that both the revenue reported as earned and the liability recorded as due to customers for future redemption of air miles, is both accounted for in the same manner. In addition to this, the Voyager division

perform calculations twice a year in order to determine the fair value of miles currently held by Voyager. The need for this report is due to the fact that the value of an individual mile fluctuates, based on any miles accrued based on the current audited fair value rates. Thus all miles currently available to be redeemed are valued based on updated prices, with any difference between fair value (as calculated) and the value recognised, being released to revenue immediately;

5.10.5. Voyager members earn one mile for every R1.60 spent exclusively on South African Airways flights. SAA Voyager members can furthermore *earn* miles by flying with 37 airline partners, including the Star Alliance global network, and more than 29 non-airline partners, in multiple categories;

5.10.6. Further to the above, SAA Voyager Members can *spend* miles on more than 38 airline partnerships, including the Star Alliance global network. Spending options for non-airline awards include car rental, spa vouchers and retail awards and these miles are valid for three years from the date they were originally accrued by the members. The member can also nominate any person to be the benefactor of rewards utilised through the redemption process;

5.10.7. The above structure has allowed Voyager to become a strategic centre for SAA due to its cash generating abilities. Voyager earns cash immediately when miles are accrued by members on third party programme partners, whereas cash outflows when members redeem the available miles on third party programme partners. The accrual and redemption rates for third party programme partners are structured to ensure that profit is recognized for all miles redeemed;

5.10.8. It is however critical to note that there does not appear to be any formal documentation, agreements or contracts which formalise and set out the relationship between SAA Voyager and SAA operations. The terms and conditions of the business arrangement have not been formally defined and the manner in which miles are valued or redeemed has not been agreed between the parties;

5.10.9. This agreement would be integral in establishing Voyager as a standalone entity. It has previously been intimated that management wished to restructure its SAA Voyager, essentially unbundling this area of the business to form its own statutory entity. This was envisaged as an initiative suggested in the Long Term Turnaround Strategy of SAA in 2012, whereby Voyager would become a wholly owned subsidiary within the SAA group, with the option of enticing a

suitable equity partner at a later date. This project received the appropriate Board approval to proceed with unbundling, however, was later stopped due to three main concerns, as follows:

5.10.9.1. Were Voyager to become a stand-alone entity, it would no longer be able to utilise the assessed tax losses within the SAA group and thus would be liable to pay taxation on profits earned. This would result in significant outflows of cash in relation to the revenue earned that, at that time, was utilised to reduce the tax losses carried forward within the SAA group;

5.10.9.2. Due to the fact that the proposed new company would assume the full liability of providing services to its members, the new company would be factually insolvent and thus require a separate guarantee from National Treasury, as surety for its respective debts and liabilities; and

Management's comment

Based on our initial findings management's comments are that although the comment above was a rejection reason, they were not in agreement. Voyager would have been technically insolvent from an accounting perspective. However no additional guarantee was required for the transaction as Voyagers contingent liability forms part of the current guarantee requirements.

5.10.9.3. Once an equity partner is effectively brought on as a shareholder, SAA operations would then be required to fund its portion of the business operations through cash payments to Voyager. This would place an unwarranted burden and additional pressure on the already limited cash resources within the SAA operations.

Management's comment

The third reason for the shareholder declining the application for the corporatization of SAA Voyager was the understanding that the introduction of an equity partner for Voyager would require a capital injection by SAA due to its shareholding of the new company. Voyager management was not in agreement with this rejection reason as an intangible asset (goodwill) could have been raised.

5.10.10. Due to the above concerns, the management of SAA Voyager is alternatively seeking to become an enhanced division within SAA. This would effectively allow Voyager to be ring-fenced within SAA. This would mean that SAA Voyager remain a division within SAA to allay the concerns above but provide SAA Voyager the autonomy associated with being an entirely separate entity. This status would provide SAA Voyager greater control over decision-making and implementation of its policies. Management of SAA Voyager want to promote the protection of its cash resources, which would be used to enhance the third party redemption initiatives and lead to greater profitability within Voyager. Management of SAA Voyager is also seeking more autonomy to be able to make astute business decisions within a more favorable timeframe. It appears that SAA Voyager management feel hindered by the bureaucracy and decision making timelines that lead to sub optimal decisions being made in relation to an un-optimised operating business model thus impacting the SAA Voyager profitability and leverage of the programme;

5.10.11. This enhanced division status was on the agenda to be presented to the Board in December 2015; and

5.10.12. We have not tested the accounting disclosures and application and adherence to IFRIC 13. However management have confirmed that the reporting of the deferred revenue liability and revenue release is in accordance with IFRIC 13 and IFRS 18. Adherence and disclosures are subject to an annual audit by an external audit company.

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5.11. Monitoring of quarterly performance

We reviewed the first quarter performance of the SAA group from April to June 2016 and compared to prior years:

5.11.1. Group income statement

	YTD June2016	Adjusted June YTD	Prior year June 2015	YTD Budget
Revenue	**7 317**	**6 629**	**6 809**	**8 224**
Operating costs	**(7 982)**	**(7 098)**	**(7 269)**	**(8 605)**
• Energy	(1 768)	(1 441)	(1 935)	(1 863)
• Labour	(1 554)	(1 536)	(1 468)	(1 599)
• Aircraft	(1 155)	(981)	(903)	(1 375)
• Other	(3 505)	(3 139)	(2 964)	(3 767)
EBITDA	**(665)**	**(469)**	**(461)**	**(381)**
Depreciation, impairment & other	(195)		(201)	(207)
EBIT	**(860)**		**(662)**	**(588)**
• Hedging	12		(14)	0
• Foreign exchange gains/losses	(249)		49	0
Net operating loss	**(1 097)**		**(627)**	**(588)**
Net finance costs	(268)		(177)	(289)
Loss before tax	**(1 365)**		**(804)**	**(877)**
Taxation	13		(0)	14
Net loss	**(1 352)**		**(804)**	**(863)**
Preference dividends	(36)		(25)	0
Net loss	**(1 388)**		**(829)**	**(863)**

(Ex: SAA Quarterly report)

5.11.2. Key salient financial features for Q1 are:

5.11.2.1. According to documentation obtained and reviewed in Q1, although operating costs remained favorable to budget, revenue was significantly below budget, which as a result impacted the Group's bottom line. The Group recorded a **net loss of R1.388 billion**, against a budgeted net operating loss of R863 million. The Group recorded 7% more revenue for the quarter, compared to the same quarter in FY16, which was largely driven by the impact of weaker currency. Operating costs for the quarter were 10% more than costs incurred in the same quarter in FY16. The weaker rand, as approximately 53% of costs are denominated in stronger currencies, adversely impacted operating costs. The ZAR/USD exchange rate weakened 26% compared to the same quarter in FY16.

5.11.3. Revenue

5.11.3.1. Revenue was well below budget;

5.11.3.2. Revenue passenger figures were down by 5% compared to budget and on par with FY15. Overall passenger growth has been subdued and the increase in capacity from low cost carriers and increased frequencies being operated by foreign carriers continue to threaten SAA's market;

5.11.3.3. The Group recorded 7% higher revenue than in Q1 of FY16, largely driven by higher prices and the currency impact of a weaker Rand, although RASK at R0.97 was down against budget of R1.07;

5.11.3.4. PAX numbers were on a par with FY16 levels and airfares were in line with budget, but the overall load factor was only 69% versus a target of 72%;

5.11.3.5. ASKs were in line with budget but 1% below FY16 Q1 levels; and

5.11.3.6. Increased frequencies by competitors in SA, especially airlines from the Middle East and additional capacity from LCC's means that competition was stiff and there was continued pressure on airfares.

5.11.4. Operating costs

5.11.4.1. Operating costs are 7.8% below budget with savings in fuel costs (higher Brent prices which were more than offset by lower than budgeted exchange rates) as well as lower maintenance and other operating costs. However when compared against FY16 Q1, operating costs were 10% up, and impacted by a 26% devaluation in the Rand compared to the same quarter (FY16) last year;

5.11.4.2. The year to date net loss of R1.388 billion was higher than budget by R525 million, including an adverse impact of net foreign exchange translation losses of R249 million;

5.11.4.3. Hedging and foreign exchange losses for Q1 were R237 million. This was made up of a R249 million foreign exchange losses and R12 million currency hedging gains (net R237 million); and

5.11.4.4. Net finance costs of R268 million for the Q1 was 7.8% below budget as a result of more reliance on debt finance to fund the Group's operating activities.

5.11.5. EBITDA

5.11.5.1. Losses for Q1 were recorded at both EBITDA and net loss levels;

5.11.5.2. The YTD EBITDA loss of R665 million shows an adverse variance against budget of R284 million due to a R907 million shortfall against the revenue target (12.4% down), despite the fact that operating costs were lower by R623 million.

5.11.6. Finance costs

5.11.6.1. Net finance costs were 51% ahead of FY16 but more or less in line with budget.

5.11.7. Cash flows

5.11.7.1. Net cash inflow from operating activities was R331 million for Q1.

5.11.8. Cost compressions savings

5.11.8.1. Cost compression savings, R181 million savings were realised in Q1 after R1.1 billion savings achieved in 2015/16. This was against an annual savings commitment of R722 million. Management are reviewing the cost compression targets to include potential additional targeted maintenance savings which are expected to be identified following a recent maintenance benchmarking exercise conducted by IATA experts in conjunction with SAA and SAAT;

5.11.8.1.1. These savings contain the flow through benefits of last year's negotiations regarding the reduction of aircraft lease rate extension costs as well as the reduction of salary costs of following the labor restructuring exercise which was completed in October 2015;

5.11.8.1.2. Positive YTD hedging revaluations of R22 million, net of premiums was reported;

5.11.8.1.3. Cash generated from operations was R357 million for the quarter versus a budgeted outflow of R84 million due to favorable working capital movements;

5.11.8.1.4. A free cash position of R654 million was reported at the end of Q1;

5.11.8.1.5. A new group remuneration philosophy was designed by HR and approved by EXCO and REMCO for inter alia executives in relation to performance;

5.11.8.1.6. SAAT commenced weekly maintenance checks in Cape Town;

5.11.8.1.7. Cash and cash equivalent as at 30 June 2016 was R2.068 billion. This balance consists of R654 million free cash and R1.579 billion restricted cash net of short-term borrowings of R165 million.

5.11.9. Consolidation of SAA debt

5.11.9.1. The consolidation of debt was behind schedule and according to management this is impacting negatively on targeted savings of R300 million for the year.

5.11.10. Exchange rate

5.11.10.1. The average ZAR/USD exchange rate declined by 26% compared to FY16 Q1, which has significantly impacted the operating cost line since 53% of Group operating costs are denominated in foreign currencies. There are also adverse pressures on outbound traffic;

5.11.10.2. Weak commodity demand and low oil prices have led to a contraction in traffic in most of the oil driven African countries;

5.11.10.3. Fluctuations in both the ZAR/USD exchange rate and the Brent crude oil price have a significant financial impact.

5.11.10.4. The ZAR/USD exchange rate depreciated by 26% compared to FY16, significantly impacting the operating cost line since approximately 53% of the Group's costs are denominated in foreign currencies;

5.11.10.5. The average price of Brent oil fell by 29% compared to FY16 to USD43 per barrel. While the average price of Brent crude oil remained low at USD43 per barrel, this was still above the budgeted cost of USD35 per barrel which had an impact on the fuel cost line, but was more than offset by the average ZAR/USD rate for Q1 of R15.13 which was below a budget of R16.28;

5.11.10.6. Net cash inflow from operating activities was R331 million for Q1;

5.11.10.7. The ZAR/USD exchange rate had an impact on both revenue and operating costs. However the net exposure impacts costs, as more costs (53%) are incurred in stronger currencies than revenue (52%). If the ZAR were trading at similar levels to the prior year, the negative YTD EBITDA of R665 billion would have been a loss of R469 billion.

5.11.11. Revenue per available seat per kilometer (RASK)

5.11.11.1. SAA's RASK was below target on the back of revenue being below target. Total income was negatively impacted by lower demand and marginally lower average fares, when compared to budget. ASK's are on par with budget but 1% below prior year.

5.11.11.2. The following should be highlighted with regards to revenue:

5.11.12. SAA Revenue, passenger numbers & load factors

5.11.12.1. The total group revenue for Q1 of R7.317 billion was 12.4% below budget (R8.224 billion) but 7.5% ahead of FY16 Q1 revenue (R6.809 billion). The increase against FY16 was largely as a result of currency weakness as well as an increase in average fares.

5.11.13. Domestic

5.11.13.1. Group domestic revenue of R1.088 billion for Q1 was 8% below budget (R1.184 million) but 1% ahead of FY16 Q1 revenue (R1.082 billion). Excluding the impact of the change in the exchange rate, SAA domestic revenue reflects a 10% decrease over FY16.

5.11.13.2. The movement in revenue is largely attributable to the following:

5.11.13.2.1.1. Revenue passenger numbers were 6.5% below budget and 0.5% below FY16;

5.11.13.2.1.2. RASK's were 1% below budget but 1% ahead of FY16; and

5.11.13.2.1.3. Average fares were 1% below budget but 4% ahead of FY16.

"Mango's revenue of R 472 million for the 1st quarter was 14% below budget (R549 million), and 1% below FY16 Q1 revenue (R477 million). Part of this shortfall against budget was attributable to planned reductions in SAA's domestic capacity, which did not fully materialize.

SAA achieved an overall load factor of 74%, on par with FY16 but below budget (78%). Mango achieved an 81% load factor, below budget (85%) and FY16 (82%). SAA achieved a business class load factor of 49.5%, which was below both budget (56%) and FY16 (52%). The economy class load factor of 79% was on par with FY16 (79%) but below budget (83%)."

5.11.14. Regional

5.11.14.1. Regional revenue of R1.612 billion for Q1 was 12% below budget (R1.836 billion) but 6% ahead of FY16 Q1 revenue (R1.514 billion). Excluding the impact of the change in the exchange rate, SAA's regional revenue reflects a 5% decrease over FY16.

5.11.14.2. The regional performance can be attributed to the following factors:

5.11.14.2.1. Revenue passenger figures were 5% below budget but on par with FY16;

5.11.14.2.2. ASK's were 2% below budget and 3% below FY16; and

5.11.14.2.3. Average fares were 5% below budget but 10% ahead of FY16.

5.11.14.3. SAA achieved an overall load factor of 61%, being below budget (63%) and marginally below FY16 (62%). Business class load factor of 45% was below budget (46%) and below FY16 (46%). Economy class load factor of 65% was below budget (66.5%) but on par with FY16 (65%).

5.11.15. International

5.11.15.1. International revenue of R2.912 billion for Q1 was 5% below budget (R3.067 billion) but 23% ahead of FY16 Q1 revenue (R2.363 billion). Excluding the impact of the change in the exchange rate, SAA's international revenue was 10% ahead of FY16.

5.11.15.2. The international performance can be attributed to the following factors:

5.11.15.2.1. Revenue passenger figures were 1% below budget but 2% ahead of FY16;

5.11.15.2.2. ASK's were 1% ahead of budget but 1% below FY16; and

5.11.15.2.3. Average fares were 1% below budget but 22% ahead of FY16.

SAA achieved an overall load factor of 70%, being below budget (74%) but ahead of FY16 (68%). Business class load factor of 70% was below budget (73%) and slightly above FY16 (67%). Economy class load factor of 70% was ahead of FY16 (68%) but below budget (75%).

5.11.16. SAA Cargo

5.11.16.1. Revenue for SAA Cargo for Q1 of R546 million was 23% below budget (R709 million), but 3% ahead of FY16 Q1 revenue (R533 million).

5.11.16.2. According to the draft quarterly report higher yields have been achieved the domestic market compared to budget, whilst yields on the regional and international markets have been below budget. However yields on all markets showed improvement compared to FY16. Tonnage remains below budget for all markets, however the tonnages have improved on the domestic and regional markets when compared to FY16. The overall yield achieved was 1% below budget but 27.5% ahead of FY16, although overall tonnages are 19% below budget and 8% below FY16. Revenue for all markets was down against budget but ahead of prior year.

5.11.17. Voyager

5.11.17.1. Voyager revenue for Q1 of R143 million was 28% below budget (R198 million) and 15% below FY16 Q1 revenue (R168 million). The reason for the variance against budget is that Voyager Mile

redemption is below budget hence the lower release of income from the deferred revenue (balance sheet) to Voyager Income (Income Statement). Voyager miles earned on SAA are deferred at a fair value of R0.05811 cents. Voyager reflects a year to date net profit of R28 million, 14% below budget of R33 million but ahead of FY16 (R28 million).

5.11.18. Route Profitability

5.11.18.1. The number of routes profitable at a contribution after aircraft ownership level plus network contribution dropped from 26 of 36 in Q4 to 23 of 35 in Q1 FY16. 23 out of the 35 routes that SAA flies were profitable at a route profit level plus network contribution for Q1 of FY17 (66%).

5.12. Unauthorised Duty Travel

5.12.1. We obtained and reviewed duty travels excel spreadsheet and noted the following:

5.12.1.1. The CEO duty travel sheet shows that in June 2016, Ms Yakhe Kwinana **("Ms Kwinana"),** former SAA Board member resigned in August 2016, travelled to the Netherlands from 22 June to 26 June 2016 apparently to meet with AkzoNobel. AkzoNobel are listed as suppliers are aircraft body paint;

5.12.1.2. Ms Du Preez confirmed that the current paint suppliers of SAAT are PPG Industries ("PPG") through a local SA agent, Safomar Aviation. The contract with PPG is valid until December 2016. The value of the contract is determined on forecast given that an aircraft usually requires a coat of paint every 3 years;

5.12.1.3. We have requested and are yet to obtain supporting documentation which indicates that, the Board Chairperson, Ms Myeni authorized Ms Kwinane's trip to the Netherlands;

5.12.1.4. Documents indicate that Ms Kwinana's trip to the Netherlands coincided with and was at the same time as, Ms Nontsasa Memela ("Ms Memela") the, CPO of SAAT trip to the Netherlands. Ms Memela apparently travelled to the Netherlands from 20 June to 24

June 2016 also to meet with AkzoNobel. The purpose of their trip was to discuss government's mandate with local suppliers; and

5.12.1.5. The purpose and value add of, Ms Kwinana and Ms Memela's trip to meet with AkzoNobel is unclear given their roles as, a Board Member and CPO respectfully. Furthermore AzkoNobel are not currently an SAAT supplier. It could be perceived that they had gone to lobby support given that the current paint supplier contracts comes to an end at the end of December 2016. All the parties could have conducted a conference call, which would have avoided the trip costs in line with the overall cost compression exercise.

5.13. Performance compared to competitors

5.13.1. Comparison of SAA Costs per average seat kilometer, aircraft utilisation and passengers serviced per employee

5.13.1.1. Table 24 below summarizes CASKS, aircraft utilisation and average number of passengers serviced per employee, as indicated from the SAA's Long Term Turnaround Strategy document of July 2013:

	SAA	Comair	Kenyan Airlines	Ethiopian Airlines	Air New Zealand	Turkish Airlines	Emirates	Mango
CASK (Full US cents	10.91	7.41	9.15	8.07	9.23	6.73	7.03	6.30
CASK (Non Fuel) US cents	7.43	4.75	5.63	4.76	6.51	3.99	4.21	4.04
Aircraft Utilisation	10.13	10.07	10.57	11.44	11.28	11.40	12.00	10.29
Pax per employee	531	2381	754	593	1206	1826	801	3215

Above: Table 24: Comparison of SAA costs

5.13.1.2. Evident from the above is that SAA has the worst performance measures out of the eight airlines compared in the table above in relation to CASK and passengers serviced per employee and was only marginally better than Comair in terms of its asset utilization. SAA was still however, behind in its asset utilization performance measure compared to the remaining six airlines.

5.13.1.3. The passenger per employee statistics compared to the other airlines are significant when one takes into account that in certain cases, other international airlines are servicing between three and four times more passengers than what SAA services. This points to an unsustainable bloated work force.

5.13.1.4. Based on the 2016 Integrated Report, there was a slight improvement in the number of passengers per employee at 625, compared to the LTTS report of 531 per Table 24 above.

5.13.1.5. According to Mango's financial statements for the year ended 31 March 2016, its targeted CASK was set at R 0.67 compared to an achieved CASK of R 0.62. This compares to SAA's CASK of R 0.93 for the same period.

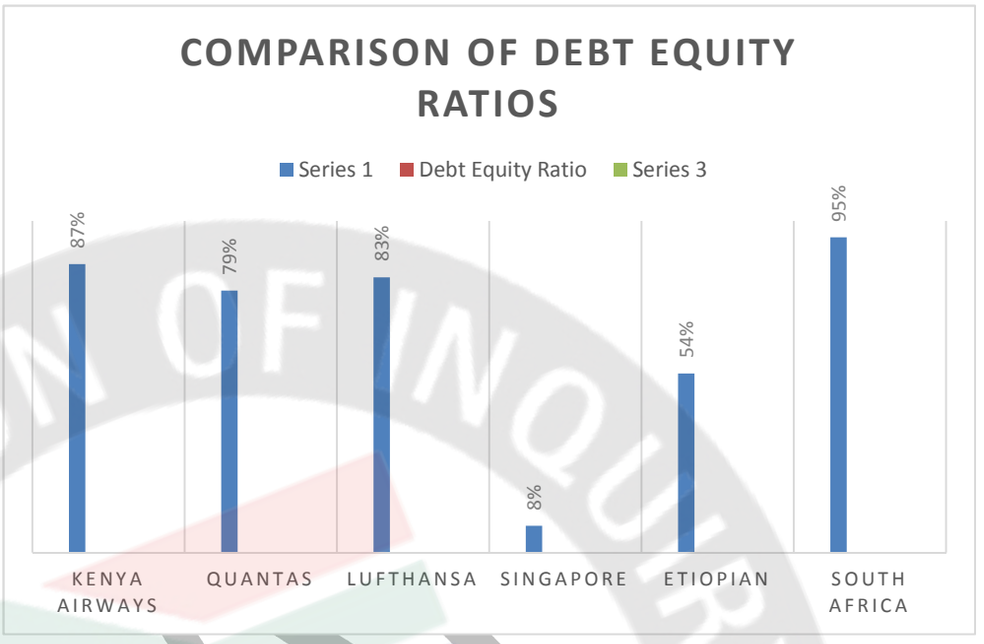
5.13.1.6. Revenue per available seat kilometer

5.13.1.6.1. Available information indicates that for 2016, SAA's RASK was R 0.89 compared to Mango, who's actual RASK was R0.62 against a target of R0.67.

5.13.1.7. Debt / Equity Ratios

5.13.1.7.1. SAA's current debt equity ratio is 95%, according to the Second Quarter Report 2016/17.

5.13.1.7.2. This compares negatively in relation to the following airlines whose debt / equity ratios are depicted in the graph below:



5.13.1.7.3. Given the high cost of capital, trading at a debt equity ratio of 95%, to other airlines, which are at significantly lower ratios is unsustainable.

5.13.1.8. Incentivized remuneration

5.13.1.8.1. A key distinguishing factor between SAA and Mango relates to staff incentives. Mango's annual financial statements indicate that:

"In addition to guaranteed packages, all employees, inclusive of the executive directors and members of senior management participate in an annual performance bonus scheme to reward the achievement of agreed company financial, strategic and personal performance objectives.

Employees below management level also enjoy participation in this annual variable pay scheme,

based on performance, both company and individual performance."

5.13.1.9. SAA on the other hand does not encourage incentive driven remuneration at employee level. Staff bonuses are in the form of rebated travel, which if applied correctly, is not a cost contributor to SAA and does not encourage staff performance.

5.14. Analysis of loss/balance sheet

5.14.1. The following salient features have been gleaned from the SAA 2nd Quarter FY 2016/2017 report:

5.14.1.1. There has been a swing to a positive EBITDA of R274 million for the 2nd Quarter, bringing YTD loss to R391 million. This was below budget but represented a 24% improvement on FY'16;

5.14.1.2. YTD net loss of R2.2 billion was worse than budgeted loss of R0.9 billion but includes unbudgeted adverse currency translation losses of R0.84 billion;

5.14.1.3. Revenue was 6% up on last YTD (mainly fare related), but significantly below budget (12%), which negatively impacted the Group's bottom line;

5.14.1.4. Revenue is still below budget due to difficult market conditions as well as delayed implementation of new routes;

5.14.1.5. Average prices improved from Q1 by about 4% (in line with budget) and load factors were also much improved ending at YTD of 73% versus Q1 average of 69%. RASK at 1.02 ZARc was also up on Q1's 0.97 ZARc, albeit still down against budget of 1.11 ZARc;

5.14.1.6. Revenue PAX numbers were down by 7% against budget and 2% down on last year;

5.14.1.7. ASKs were in line with budget but 1% below FY16 Q1 levels;

5.14.1.8. There is a continuing negative impact on costs of the ZAR/USD exchange rate which has depreciated by 26% Year on Year (from an average of R12.29 to R14.70). Average Brent price of oil fell by 22% but was above the $35 per barrel budgeted for;

5.14.1.9. Overall operating costs were 9% below budget and excluding fuel, operating costs would have been 4% below FY'16 levels;

5.14.1.10. YTD Net finance costs of R556 million were 5% below budget but 46% ahead of FY16 as a result of more reliance on debt finance to fund the Group's operating activities;

5.14.1.11. Net cash inflow from operating activities was R121 million YTD versus a budget of R56 million. However there was a YTD net decrease in cash and cash equivalents of R1034 million due to loan and financing cost payments;

5.14.1.12. Of particular significance from the above is that YTD Net Finance costs of R 556 million were below budget but 46 % ahead FY'16 levels. Furthermore there is a net decrease in cash and cash equivalents of R 1 034 million due to loan and financing cost payments. In addition, the consolidation of debt is behind schedule and is impacting negatively on targeted savings of R160 million for the year;

5.14.1.13. It is clear from the above that SAA's debt funding is a significant constraint to returning to profitability;

5.14.1.14. SAA has made several attempts to consolidate its debt financing through a number of initiatives. A new RFP in this regard has been issued and is currently being evaluated;

5.14.1.15. We have conducted several computations to demonstrate the impact of utilizing savings from a debt consolidation process that will significantly contribute to savings.

These are discussed in the paragraph dealing with the impact of the debt consolidation elsewhere in this report.

5.14.2. Financial position and performance

5.14.2.1. The group's financial position and performance is encapsulated in the quarterly report as follows:

	Q1 YTD Target	Q1 YTD Actual	Q2 YTD Target	Q2 YTD Actual
EBITDA	(R 395 m)	(R 665m)	R 19 m	(R 391 m)
Net Profit	(R 891 m)	(R 1 388m)	(R 978 m)	(R 2 153 m)

5.14.2.2. "SAA's financial position and performance should be viewed in light of the current market dynamics it is exposed to. This can be both macro-economic indicators and aviation specific variables.

5.14.2.3. Fluctuations in both the ZAR/USD exchange rate and the Brent crude oil price have a significant financial impact.

5.14.2.4. The average YTD ZAR/USD exchange rate depreciated by 26% compared to FY16, significantly impacting the operating cost line since approximately 54% of the Group's costs are denominated in foreign currencies. Whilst the ZAR/USD exchange rate has increased compared to FY16, it is below the budgeted rate of R16.28.

5.14.2.5. The average price of Brent oil fell by 22% compared to FY16 to $45 per barrel. While the average price of Brent crude oil remains low at $45 per barrel, this is still above the budgeted cost of US$35 per barrel, which has an impact on the fuel cost line. This was an unrealistic estimated cost.

5.14.2.6. Revenue passenger figures are down by 7% compared to budget and down 2% compared to FY16. Overall passenger growth has been subdued and the increase in capacity from low cost carriers and increased frequencies being operated by foreign carriers continue to threaten our market. This was on the back of a drop in capacity (ASK's) of 2% compared to both budget and FY16.

5.14.2.7. The Group recorded a year to date ("YTD") Net Loss before depreciation and impairments (EBITDA) of R 391 million which was below budget but a 24% improvement on FY16. YTD, although

operating costs remained favorable to budget, revenue is significantly below budget, which as a result impacted the Group's bottom line. The Group recorded 6% more revenue YTD compared to the same period in FY16, which was largely driven by the impact of weaker currency. Similarly, YTD operating costs were 5% more than costs incurred in FY16. Operating costs were adversely impacted by the weaker ZAR, as approximately 54% of costs are denominated in stronger currencies.

5.14.2.8. The YTD Net Loss of R 2,153 billion is significantly above the budgeted Net Loss of R 923 million. The YTD Net Loss includes the hedging and foreign exchange translation losses of R 887 million. This consisted of an R 841 million foreign exchange translation loss and R 46 million currency hedging loss.

5.14.2.9. YTD Net finance costs of R 556 million were 5% below budget but 46% ahead of FY16 as a result of more reliance on debt finance to fund the Group's operating activities."

5.14.2.10. Based on the above it is evident that key contributors to SAA predicament is its high cost of funding and its exposure to foreign exchange translation losses in relation to its foreign currency denominated costs which comprises 54 % of its total costs. The exposes SAA to significant exposes through slight fluctuations in exchange rates.

5.14.3. Revenue per available seat per kilometer ("RASK")

5.14.3.1. This refers to revenue per available seat kilometer and is summarized in the 2nd Quarter report as:

Rask	Q 1 YTD Target	Q1 YTD Actual	Q 2 YTD Target	Q2 YTD Actual
	118c	105 c	122c	110c

5.14.3.2. SAA's RASK is below target on the back of revenue being below target. Total income was negatively impacted by lower demand and marginally lower average fares, when compared to target. Furthermore, ASK's are 2% below both target and prior year. From revenue perspective the following should be highlighted:

5.14.4. SAA Revenue, Passenger Numbers & Load Factors

5.14.4.1. Total YTD Group revenue of R 15.329 billion is 12% below target (R 17.397 billion) but 6% ahead of FY16 revenue (R 14.471 billion);

5.14.4.2. The increase against FY16 is largely as a result of currency weakness as well as an increase in average fares.

5.14.5. Domestic

5.14.5.1. Group YTD domestic revenue of R 2.209 billion was 10% below target (R 2.451 million) but on par with FY16 revenue (R 2.215 billion). Excluding the impact of the change in the exchange rate, SAA domestic revenue reflects a 9% decrease over FY16;

5.14.5.2. The movement in revenue is largely attributable to the following:

5.14.5.2.1. Revenue passenger numbers were 8% below target and 2% below FY16.

5.14.5.2.2. ASK's were 1.5% below target but on par with FY16.

5.14.5.2.3. Average fares were 2% below target but 3% ahead of FY16.

5.14.5.3. Mango's YTD revenue of R973 million was 11% below target (R 1.098 billion) but 4% ahead of FY16 revenue (R 938 million). Mango achieved an 82% load factor, below budget (85%) but on par with FY16 (82%) Part of this shortfall against budget was attributable to planned reductions in SAA's domestic planned capacity, which did not fully materialize;

5.14.5.4. SAA achieved an overall load factor of 75%, being below target (80%) but on par with FY16 (75%). Mango achieved an 81% load factor, below budget (85%) and FY16 (82%);

5.14.5.5. SAA achieved a Business class load factor of 50%, which was below both target (56%) and FY16 (52%). The economy class load factor of 81% was below target (85%) but on par with FY16 (81%).

5.14.6. Regional

5.14.6.1. YTD regional revenue of R 3.344 billion was 15% below target (R 3.944 billion) but 4% ahead of FY16 revenue (R 3.206 billion). Excluding the impact of the change in the exchange rate, SAA regional revenue reflects a 4% decrease over FY16.

5.14.6.2. Regional performance can be attributed to the following factors:

5.14.6.2.1. Revenue passenger figures were 7.5% below target and 2% below FY16.

5.14.6.2.2. ASK's were 4% below target and 2% below FY16.

5.14.6.2.3. Average fares were 6.5% below target but 9% ahead of FY16.

5.14.6.2.4. SAA achieved an overall load factor of 64%, being below target (66%) and marginally below FY16 (65%);

5.14.6.2.5. The Business class load factor of 46% was below target (48%) and below FY16 (48%). The Economy class load factor of 68% was below target (70%) but on par with FY16 (68%).

5.14.7. International

5.14.7.1. YTD international revenue of R 6.385 billion was 5% below target (R 6.752 billion) but 19% ahead of FY16 revenue (R 5.353 billion). Excluding the impact of the change in the exchange rate, SAA's international revenue is an excellent 9% ahead of FY16;

5.14.7.2. Factors attributable to international performance include the following:

5.14.7.2.1. Revenue passenger figures were 4% below target and 2% below FY16;

5.14.7.2.2. ASK's were 2% below target and 3% below FY16; and

5.14.7.2.3. Average fares were 1% below target but 22% ahead of FY16.

5.14.7.3. SAA achieved an overall load factor of 75%, being below target (79%) but ahead of FY16 (74%);

5.14.7.4. The Business class load factor was 71% (FY16: 67%) which was on par with target (71%), while Economy class load factor of 76% (FY16: 75%) was below budget (80%).

5.14.8. SAA Cargo

5.14.8.1. YTD Cargo revenue of R 1.097 billion was 25% below target (R 1.466 billion) and 6% below FY16 revenue (R 1.165 billion) with yields showing some improvement although tonnage remained below target for all markets. However positively, 2 B737-300 Freighter aircraft have been secured for a period of 3 years which will significantly improve capacity going forward;

5.14.8.2. Higher yields have been achieved in the domestic and regional market compared to target, whilst yields on the international markets have been below target. However yields on all markets showed improvement compared to FY16. Tonnage remains below target for all markets when compared to FY16. The overall yield achieved was 6% below target but 20% ahead of FY16, although overall tonnages were 17% below target and 9% below FY16;

5.14.8.3. In view of the significant decline in cargo revenue compared to the target, the utilization of the additional fleet needs to be carefully monitored to ensure optimum revenue going forward;

5.14.8.4. We have not reviewed plans and the business cases regarding the additional freighter aircraft sourced.

5.14.9. Operational Costs (CASK's)

This relates to Operational Costs per Available Seat Kilometer and is summarized in the 2nd Quarter report as:

CASK	Q 1 YTD Target	Q1 YTD Actual	Q 2 YTD Target	Q2 YTD Actual
	118c	105 c	122c	110c

5.14.9.1. Group Operating Cost

5.14.9.1.1. The Group's YTD operating costs of R 15.720 billion were 9% below target (R 17.351 billion), but 5% ahead of FY16 costs (R 14.988 billion). The increase over FY16 is largely driven by the impact of the weakening ZAR/USD exchange rate. The lower price of Brent Crude oil as well as the cost compression initiatives currently underway has helped to mitigate against the impact of the weaker ZAR;

5.14.9.1.2. As indicated above, the average ZAR/USD exchange rate weakened by 20% from R 12.27 to R 14.70 and, if the exchange rate impact is excluded, operating costs were 4% below FY16.

5.14.10. YTD savings for September 2016

5.14.10.1. In the first six months of 2016/17 unaudited savings of R429 million have been recorded;

5.14.10.2. Since 2012 the non-fuel CASK in Us terms has reduced from 7.00 USc to an average of 6.07 USc for the 6 months to 30 September 2016. This however is distorted by currency adjustments, which if excluded reduce the non-fuel CASK to 5.68 which is below SAA's target of 5.85. ZARc CASKs, on the other hand, continue to be negatively impacted by the adverse movement in exchange rates;

5.14.10.3. As a result non-fuel CASK excl. currency adjustments increased from a 2012 average of 52.4 ZARc to 84.4 ZARc, albeit below weighted average of inflation and foreign exchange movements;

5.14.10.4. It should be noted that the Interest impact is becoming increasing noticeable with an almost Year on Year doubling in FY'17.

5.14.11. Guarantees and Borrowings

5.14.11.1. At 30 September 2016, SAA had drawn down R14.095 billion against the total guarantee value of R19.114 billion, leaving a balance of R5.019 billion;

5.14.11.2. The following measures are in place to ensure compliance with the guarantee conditions:

Compliance requirement	**Measure**
SAA to report on the utilization of the Guarantees with regard to the working capital, risk adjustments, and sensitivities components as outlined in the Going Concern report	The utilization of Guarantees is being reported on a monthly basis at the NT monitoring meeting.
SAA to require NT's approval of the terms of the financing raised against the guarantee before concluding any agreements.	In the current year, SAA has not raised any funding but it is a practice that NT's approval is sought.
The Board of SAA shall complete and submit the LTTS /Corporate Plan which is subject to approval on an annual basis. This includes the Borrowing Plan.	The Borrowing Plan for the financial year 2016-2020 has been completed and approved by Board in February 2016. This has been submitted to NT.
A monitoring committee comprising of representatives from NT to monitor amongst others, SAA's financial position, financial performance, progress with developing and implementing the LTTS, and compliance with conditions of the Guarantees.	This takes place on a monthly basis. The following agenda items are discussed every month. Financial Position, Financial Performance, cash flow forecasting , liquidity, Utilization of Government Guarantees , Restricted Funds; Network and Fleet Plan and any PFMA Section 54 applications; Agreement between SAX and SAA.

5.15. External audit firm considerations

5.15.1. SAA is currently jointly audited by two external audit firms, Nkonki Inc. ('Nkonki') and PriceWaterhouseCoopers Inc. ('PWC'). The audit is shared 50:50 in terms of audit responsibilities;

5.15.2. The audit teams were historically allocated different sections of work to handle, with Nkonki handling the SAA Voyager business unit and the revenue cycle, while PWC audited all other sections pertaining to the year-end audit. This was the case for the FY2015/2016 audit;

5.15.3. During the prior year-end audit (FY2014/2015), these roles were completely reversed with PWC auditing the revenue cycle and Voyager business unit;

5.15.4. Initially, we anticipated that there could be an element of cost savings that could be achieved in terms of analysing the split of external audit responsibilities and evaluating whether any synergies or benefits could be derived from standardizing the work performed by the various external audit teams and ensuring continuity of the staff composition within external teams;

5.15.5. This could be achieved through robust discussions between management and the external joint auditors to ensure continuity of external audit personnel and insisting that the team that gained knowledge and experience when auditing their allotted cycles, were re-awarded the same sections (year-on-year) and thereby build on their existing working knowledge of the accounting and internal controls environment within the various business cycles which they had previously audited. This would result in a more streamlined learning curve experienced by the respective team members and ultimately provide SAA with additional cost savings in respect of the external audit fee;

5.15.6. With regards to the rotation of the work allocated between the joint audit firms over the previous year end audits, this methodology appears to be counter-intuitive and not in the best interest of SAA, as staff allocated to complete the various sections of the audit effectively have to start from a 'zero base' and gain a proper understanding of each of the various business cycles;

5.15.7. Based on discussion with Ms Olitzki, HOD (Financial Accounting SAA), there is currently a debate as to the whether the upcoming audit will go out to tender and/or whether the Auditor General of South Africa ('AGSA') will assume the role of external auditor.

SAA is an SOE and there is renewed interest in the AGSA to adequately monitor this government owned entity through direct oversight as the duly appointed external auditor;

5.15.8. Ms Olitzki has also expressed the opinion that the mandatory rotation of auditors may possibly also expedite this decision, as the current joint auditors have been the incumbent auditors for approximately 7 years;

5.15.9. It is consequently highly likely that the joint external auditor will not be re-appointed for the forthcoming financial year-end audit and that this engagement will once again revert to the AGSA;

5.15.10. Based on discussions with Ms Olitzki, there is very little to no pressure that SAA can exert on the external auditors, to reduce the quoted external audit fee;

5.15.11. The historical audit fees incurred by SAA in relation to work performed by the joint auditors over the past few years, for the Group, is set out as follows:

Auditors remuneration i.r.o. entire Group audit	**2016 R'millions**	**2015 R'millions**	**2014 R'millions**
Audit fees – current year	15	13	15
Other regulatory services	3	1	1
Non-audit services	1	2	3
Total auditors' remuneration	**19**	**16**	**19**

5.15.11.1. The historical audit fees incurred by SAA in relation to work performed by the joint auditors over the past few years, for the Company, is set out as follows:

Auditors remuneration i.r.o. Company audit	**2016 R'million**	**2015 R'million**	**2014 R'million**
Audit fees – current year	11	9	10
Other regulatory services	3	1	1
Non-audit services	1	2	3
Total auditors' remuneration	**15**	**12**	**14**

5.16. Group strategic documents

5.16.1. The principal guidance currently utilised by SAA management to strategically drive the Group is called the Long-Term Turnaround Strategy ("LTTS"). The LTTS was launched in July 2013 and is a delivery-orientated strategy to redress SAA's unsustainable business model and to realign the Group's operations with the expectations of its stakeholder. The LTTS is essentially a 20-year long term outlook, acknowledging the importance of long-term planning in a capital intensive aviation industry, while attempting to restore the Group to sustainable profitability within a shorter time frame;

5.16.2. During the onset of the implementation process, it became apparent that certain strategic objectives had to be re-assessed and reformulated and this transpired in a short-term (90-day) action plan being tabled by the Board in March 2015. This short term plan focused management's attention on the critical issues that needed urgent attention and implementation across the business operations at that point in time;

5.16.3. Subsequent to the implementation of the 90-day action plan (insofar as deemed practical by management), the Group has continued to apply the principles and policies as set out in the LTTS. These principles are intended to assist SAA in implementing its strategic responses in a highly competitive trading environment and to address specific weaknesses and inefficiencies within the organization;

5.16.4. Management analyse their adherence and progress in respect of the LTTS document and the compliance and effectiveness of these strategic initiatives is reported to National Treasury in regular formal feedback sessions to the ultimate Stakeholder. This fact was confirmed in discussions with both Mr Manby and Mr du Plessis (responsible for all reporting to National Treasury and the Parliamentary Monitoring Group in this regard);

5.16.5. Most recently, the SAA 2nd Quarter FY2016/17 Report was presented to National Treasury at the quarterly meeting held in November 2016. It was noted in this report that, "*The Implementation of the LTTS is continuing with a concern that more tasks is currently in distress than in the first quarter. Half year reviews are currently being held with all stakeholders to review the status of their tasks and this will improve the overall number of tasks completed when the evidence is evaluated.*" It was identified in that report that 60 tasks across all project streams were in distress while a further 20 tasks had been put on hold as at September 2016 (statistics having been compiled through this date).

This represented an unsatisfactory compliance or implementation progress of the LTTS and confirmed serious concerns for management, while reflecting that the compliance analysed at the previous quarter end had been more favourable than the prevailing situation at the time of reporting to National Treasury;

5.16.6. A number of main areas of concern were identified in the second quarter report, namely:

5.16.6.1. Balance sheet restructuring and working capital requirements;

5.16.6.2. Implementation of revenue initiatives;

5.16.6.3. Leadership instability/Lack of implementation focus;

5.16.6.4. SAA Cargo's lack of fleet availability and market pressures;

5.16.6.5. The divestment of South African Travel Company;

5.16.6.6. Shareholder compact and unresolved differences when identifying key performance indicators;

5.16.6.7. Divisionalisation of SAA Cargo and SAA Voyager;

5.16.6.8. Creation of a State Aviation Asset entity;

5.16.6.9. Strategic partners for AirChefs; and

5.16.6.10. Whole of State where immigration regulations are not truly fixed in current legislation.

5.16.7. It appears that certain grave concerns within these operational areas are yet to be addressed or resolved by management and continue to cause ongoing financial pressures for the SAA Group. SAA have not been able to restructure their loan finance and are struggling to secure new sources of finance to meet their working capital requirements. Revenue is below budget and the implementation of new routes is behind schedule. There is concern about the lack of leadership and stability within the senior management ranks at SAA and, while there has been some progress with implementing the LTTS, there appears to be numerous strategic initiatives that are taking longer than originally anticipated, have either been placed on hold or are awaiting Board decisions to be made in this regard;

5.16.8. We have received and carried out a review of the LTTS document and conducted discussions and interviews with senior management who, *inter alia*, are effectively responsible for implementing the strategic initiatives set out therein.

5.17. Reports to the Parliamentary Monitoring Group

5.17.1. As per Schedule 2 of the PFMA, SAA is listed as a schedule 2 State Owned Entity (SOE). SAA currently has three forums on which to engage with National Treasury, weekly, monthly and quarterly, further to this SAA engages with Parliament twice annually to the Standing Committee on Finance (SCOF);

5.17.2. An interview was conducted with Mr Josua Du Plessis, Acting Chief Strategy Officer Project Management Office, in order to understand the reporting that is performed by SAA;

5.17.3. The outcomes of this meeting indicated that SAA reports to both National Treasury as well as Parliament;

5.17.4. Meetings are held with National Treasury on different management levels weekly, monthly and quarterly;

5.17.5. As per Mr Du Plessis items on the agenda of weekly meetings consist of high-level financial concerns, cost compression and general housekeeping issues with a focus on Section 54 approvals. Section 54 approvals are defined per the PFMA as follows:

"54. Information to be submitted by accounting authorities.—(1) The accounting authority for a public entity must submit to the relevant treasury or the Auditor-General such information, returns, documents, explanations and motivations as may be prescribed or as the relevant treasury or the Auditor-General may require. [Sub-s. (1) Substituted by s. 31 (a) of Act No. 29 of 1999.]

(2) Before a public entity concludes any of the following transactions, the accounting authority for the public entity must promptly and in writing inform the relevant Treasury of the transaction and submit relevant particulars of the transaction to its executive authority for approval of the transaction:

(a) establishment or participation in the establishment of a company;

(b) participation in a significant partnership, trust, unincorporated joint venture or similar arrangement;

(c) acquisition or disposal of a significant shareholding in a company;

(d) acquisition or disposal of a significant asset;

(e) commencement or cessation of a significant business activity; and

(f) a significant change in the nature or extent of its interest in a significant partnership, trust, unincorporated joint venture or similar arrangement. [Sub-s. (2) amended by s. 31 (b) of Act No. 29 of 1999.]

(3) A public entity may assume that approval has been given if it receives no response from the executive authority on a submission in terms of subsection (2) within 30 days or within a longer period as may be agreed to between itself and the executive authority."

5.17.6. During our discussions with Mr Du Plessis, he emphasised that no strategic conversations are held during these meetings as the focus of these meetings is to ensure open lines of communication between not only SAA and National Treasury, but also the different Departments within SAA that attend these meetings. To ensure that all information communicated between SAA and National Treasury is accurate the current acting CFO oversees these meetings;

5.17.7. These weekly meetings are focused on addressing issues within Mango and SAA, however, other Departments within SAA such as Fleet and Cargo have been known to be involved in weekly meetings, but only do so on a 'by invitation' basis to ensure that the meetings can have as short and focused an agenda as possible. Due to the fact that, as a requirement of their latest financial guarantee, National Treasury drove the resumption of weekly meetings, the responsibility for the agenda of each meeting and the minutes thereof lies with National Treasury;

5.17.8. Following on from the weekly meetings, SAA also engages with National Treasury on a monthly basis, to discuss the financial results of the previous month, this allows National Treasury to implement high-level mitigation as soon as any problem areas are identified. Focus is also placed on the current liquidity issues being faced by SAA, as well as feedback on current cost compression policies;

5.17.9. As the attendees of these meetings represent higher levels of management within SAA, it allows for discussions on more sensitive issues facing SAA. As discussed above weekly meetings do not contain any strategy discussions as these discussions take place during the monthly meetings;

5.17.10. This meeting also includes feedback from both Mango and SAA regarding the month's network performance. This allows individual problem routes to be identified and mitigating strategy implemented. There is a strong focus on routes that are shared by SAA and Mango to identify how best to utilise these routes, to ensure profitability across the group;

5.17.11. The third forum, which SAA uses to engage with National Treasury, is a meeting that is held on a quarterly basis. SAA releases a quarterly report entailing SAA's financial performance for the quarter as well as the performance of SAA in relation to key performance indicators (KPI). Other areas covered are; guarantees and borrowings, hedging, capital investment, Long-Term Turnaround Strategy implementation progress, human resources, National Development Agenda, internal control and risk management and regulatory control;

5.17.12. This detailed report is compiled prior to the meeting with all the divisions within SAA giving input where required. The individual head of Departments for each division whose results are included in the report approve all information included in the quarterly report. Upon completion, this report is then provided to both National Treasury and the Minister in order to ensure that it is accepted prior to the meeting and to solicit meaningful discussion at subsequent meetings;

5.17.13. As the main focus of this report centres on the financial results of SAA, it is the responsibility of the Finance Department to compile the monthly results and ensure that these are included in the report. In order to do this, Finance will close off the quarterly results two weeks following quarter end, to allow sufficient time to ensure that the report includes accurate figures. This however places time pressures upon SAA, as the quarterly report is required to be submitted to National Treasury by the end of the month of the month following the quarter end. Due to these constraints, the results presented to National Treasury are usually in the form of an unsigned final copy, which gets ratified and signed by the CEO at a later date;

5.17.14. Upon receipt of this report and following a review by National Treasury questions are posed to the management of SAA regarding the contents of these reports. The above questions are then answered in a forum (held with national treasury) one week following the presentation of the report. Based on historical practices, questions have been posed to SAA before the meeting as well as during the meeting with an opportunity for SAA to provide either written or verbal answers during and after the forum are held;

5.17.15. Over and above the meetings discussed above, additional meetings occur between SAA and Parliament's Standing Committee on Finance ("SCOF"). SAA is required to appear before SCOF twice per year. These meetings occur after the presentation of SAA's annual report and one other time during the year, at the discretion of Parliament;

5.17.16. SCOF meetings are attended by a few members of the Board (usually the CEO and CFO) as well as the Minister and a representative from, National Treasury. The format of these meetings usually follows similar patterns whereby SAA, National Treasury and the Minister will collaborate to produce a presentation to SCOF; this presentation will usually entail the financial results of SAA or answers to questions posed to SAA by Parliament before the meeting. Following the presentation members of Parliament may field questions to the members present at the meeting which will be answered during the meeting (or at a later date in writing) depending on the number of questions asked as well as the nature thereof;

5.17.17. We have requested that Mr Du Plessis provide us with the minutes of the above meetings as well as the formal presentations made to Parliament, in order to undertake a review thereof. As of 18 January 2017, no such information has been forthcoming in order to provide feedback in this regard.

5.18. Insurance cover

5.18.1. Overview

5.18.1.1. From our interviews with, Ms Olitzki and Mr van Zyl we gathered the following information:

5.18.1.1.1. SAA's insurance portfolio is reviewed annually and renewable effective 1 November 2016;

5.18.1.1.2. SAA's largest insurance exposure relates to its flight operations or Aviation related polices. These exposures are mainly based in foreign currency and have differing global jurisdiction elements;

5.18.1.1.3. The policies that form part of this renewal are the Aviation Hull, Aviation Spares, Aviation liabilities, Hull war and allied perils, excess war liability and Hull deductible buy-down;

5.18.1.1.4. The renewal process is historically preceded by a visit to the insurance markets in London by SAA executives together with the brokers;

5.18.1.1.5. SAA makes presentation of SAA's risk profile to the international insurance market promoting SAA with regard to its safely, maintenance, claims ratio, financial standing, destinations flows, passenger numbers, and technical aspects. The claims history is reviewed, various risks are reassessed, and risks transfers discussed and premiums are negotiated with the brokers;

5.18.1.1.6. After presentations are made to the insurance companies a submission is made to Fincom to recommend to the SAA Board the acceptance of the gross premium rates obtained for the aviation policies and approve placement instructions to the brokers as per the SAA Aviation Policy Renewal Terms 2016/2017. After Fincom approves the round robin submission the Board ratifies Fincom's

approval. Due to the specific nature of the Aviation Policy Renewal and the revised DOA limits the submission is made directly to the Board for approval. The gross premiums amount to approximately R78 million which is above the CEO's DoA of R50 million. The CEO's DOA was previously R100 million. Therefore as per the DoA the Board of SAA must approve all financial commitments between R50 million and R100 million;

5.18.1.1.7. The airline insurance market operates on a 'subscription basis', which requires a lead insurer to set the terms and conditions, which the market subscribe to. A typical airline placement could involve over 40 global insurers on the panel. SAA's insurances are placed in this manner through a broker (service provider) who has the ability and required regulatory approval to represent SAA's interests abroad;

5.18.1.1.8. In the event of insurance claims arising against SAA, the combined single limit for the Hull and passengers is US$1.5 billion which is considered sufficient for SAA's purposes;

5.18.1.1.9. In 2015 the total local insurance premium per annum was R18 million; and

5.18.1.1.10. In 2015 the total gross foreign premium was US$6.6 million;

5.18.1.1.11. In 2016/2017 the total gross premium is expected to be US$5.7 million;

5.18.1.1.12. In the current year, the local retail broker and SAA managed to negotiate a reduction of 13% in the gross insurance premium of US$864 477 (R12 353 213) from last year despite the value of the fleet increasing by 23.26%;

5.18.1.1.13. The SLA stipulates that SAA is responsible for the payment of premiums to Willis South Africa 30 days after receipt of a month end statement reflecting the relevant invoices for payment purposes. The premiums are paid to the local retail broker, Willis South Africa on a quarterly basis. Willis South Africa apply for Reserve Bank exchange control approval and in turn remit the premium to the wholesale brokers Willis London for distribution to the support / follow markets; and

5.18.1.1.14. According to Mr van Zyl, sufficient cover is appropriately used in the case of claims against SAA.

5.18.2. In summary the renewal terms position is as follows (ex: Fincom submission dated 22 November 2016):

Area	**2015/2016 premium USD**	**2016/2017 premium USD**	**%age change**	**USD change**
Hull All risks	5 364 614	4 500 000	(16.1%)	(864 614)
Excess War liability	300 000	250 000	(16.6%)	(50 000)
Hull War and Allied Perils insurance	396 884	451 324	(13.7%)	54 440
Buy down deductibles	585 964	581 661	(0.7%)	4 303
Total USD	**6 647 462**	**5 785 985**	**13.0%**	**(864 477)**

DRAFT COMMISSION OF INQUIRY INTO STATE CAPTURE

5.18.3. Why SAA insurance portfolio is not placed with local insurers

5.18.3.1. Concerns were raised by, members of the Board regarding why SAA's aviation insurance portfolio is purchased overseas and not from local South African insurers. In addition the concerns raised mentioned that the annual insurance renewal process, which is done overseas, appears not to follow normal procurement processes;

5.18.3.2. Due to protectionist insurance legislation the export of insurances to offshore insurers can only occur in terms of the Insurance Act. The Insurance Act states that all local insurers must be approached and either decline or are unable to underwrite a specific portfolio or class of cover at each renewal date before such coverage can be placed with international insurance markets. A specific approval process exists in terms of the Act, which requires the South African Insurance Association (SAIA) to sanction and approve such exportation before the FSB, will grant final approval. A further factor to consider is that Reserve Bank approval is required for the transfer of premiums overseas;

5.18.3.3. Therefore according to Ms Olitzki, South African insurers are unable and unwilling to underwrite the SAA aviation portfolio due to the following reasons:

5.18.3.3.1. The high capital requirements brought about by airline exposures including differing global jurisdictional elements relating to liability exposures means that only a specialist airline insurance market supported by international capital providers/investors can adequately cover the various airlines worldwide;

5.18.3.3.2. SAA's insurances need to comply with varying jurisdictional elements relating to the countries where SAA flies; and

5.18.3.3.3. SAA's operating lease agreements are also very specific and conditional with regards to the insurance requirements.

5.18.3.3.4. Historically South African insurers have either declined to quote, have had no appetite or are not interested to underwrite SAA's aviation portfolio;

5.18.3.3.5. It should be noted that SAA's general insurance portfolio, which relates to different classes of insurance (i.e. professional indemnity, medical insurance, assets and public liability, directors and officers, fidelity guarantee, employments practices liability etc) is placed fully with local South African insurers.

5.18.4. Appointment of insurance service provider (broker)

5.18.4.1. SAA's insurances are placed on the international insurance market through Willis South Africa who have the ability and required regulatory approval to represent SAA's interests abroad;

5.18.4.2. BAC records indicate that Willis were first appointed for a three year period from 1 October 2011 to 30 September 2014 at an estimated amount of R3.9 million with an option to extend for an additional two years. On 4 April 2014 the BAC approved the extension of the Willis contract from 1 October 2014 to 30 September 2016 at an estimated cost of R3.8 million. The contract was further extended on 29 September 2016 for an additional one year from 1 October 2016 to 30 September 2017;

5.18.4.3. The basis of Willis remuneration in respect of SAA's insurance portfolio is fee based, with premiums being net of commissions;

5.18.4.4. The appointment of such a service provider takes place in terms of the SAA procurement processes and also follows market practice in that a three-year contract is normally awarded;

5.18.4.5. The procurement process is initiated by means of an open advertised tender, which creates the opportunity for all potential providers to participate;

5.18.4.6. According to documentation received, the contract for the provision of Insurance and Risk related intermediary services was expiring on 30 September 2016. An open tender for the provision of insurance

intermediary services was issued on 7 August 2016. One of the prospective bidders challenged part of the critical criteria, which required certified proof of membership of the Financial Intermediaries Association of South Africa to be provided with the tender documents. One of the bidders considered the requirements as non-critical and prejudicial to SMME's. The Business unit was engaged to justify the value of the aforesaid criterion and the bidder was satisfied with the response that was provided;

5.18.4.7. The tender evaluation process also revealed a shortfall of the critical criterion on the Lloyds accreditation. None could provide an accreditation certification. In lieu of Lloyd's accreditation requirements some bidders submitted proof of registration as a Lloyd's broker. This suggests the need to review the criterion on the Lloyds accreditation to ensure that all the requested tender documents exist.

5.19. Fort Lauderdale – North Amercia Regional office

5.19.1. Overview

5.19.1.1. The Board are concerned that numerous satellite offices are running autonomously and incurring significant overheads with numerous staff members employed within these offices, while it is alleged that there is very little benefit accruing to SAA and revenue generation is not commensurate with the level of expenditure incurred;

5.19.1.2. In particular the Fort Lauderdale, Florida office has been highlighted as one such office especially given that since 30 January 2000 SAA has not operated a flight into Miami, Florida.

5.19.1.3. Based on our discussion with Mr Munetsi and Ms Jacobs we established the following:

5.19.1.3.1. Mr Todd Nieman ("Mr Nieman") is the Acting RGM of the America Regions, which covers Fort Lauderdale (Miami). Mr Nieman was recently appointed in July 2016 and reports to, Mr Munetsi;

5.19.1.3.2. The Fort Lauderdale regional office, was opened in 2004 and is responsible for all SAA's commercial

operations including generating revenue for SAA through a customer call centre and web sales and to fulfil part of the FAA's regulated activities in terms of uplifting passengers to and from the USA;

5.19.1.3.3. According to Mr Munetsi, the point of sales report indicates that North Amercia commercial operations (Fort Lauderdale) are productive and generating sufficient revenues to meet its operational budget;

5.19.1.3.4. SAA previously operated an office in New York comprising commercial, technical, cargo and airline operations. Submissions were made in 2004 for the office to be moved to Fort Lauderdale. The submissions were apparently based on the cost of real estate in New York. It was decided to relocate the SAA office to Fort Lauderdale where the real estate is cheaper. It has been alleged that the reason for opening an office in Plantation Florida was due to the value of real estate in Fort Lauderdale, and the lower labor costs when compared to the rest of America especially in cities such as New York;

5.19.1.3.5. In total SAA employs 67 people in the USA who are located in the following states:

Location - State	**Number of staff**	**Monthly salary USD @ Sept 16**
California	1	3 110
Fort Lauderdale	51	104 564
Illinois	1	3 153
New York (Airport & Cargo operations)	8	24 424
Virginia	6	10 248
Total	**67**	**145 499**

5.19.1.3.6. A total of 67 American nationals, 51 of whom are based in Fort Lauderdale, are employed by SAA in the USA.

5.19.1.3.7. For the month of September 2016 the total salary (labor) costs were, R5 778 026 (ROE USD1: R13, 76) (against a budget R6, 261, 289). To date during the 2016/7 financial year the average monthly salary expense amounts to R4.965 million (which equates to an average of R65 328 per employee per month). Employees in the USA are paid every two weeks (every second week);

5.19.1.3.8. The Customer Call Centre currently has 42 full time employees (which includes CSA, group sales, team leaders, managers). As at September 2016 the total monthly salary cost was USD169 496 (R2 332 265) and average USD4 035 (R55 530) per employee (using a ROE of R13.76). Of the 42 employees, 29 are Customer Service Agents (call centre agents). The average monthly salary for a Customer Service Agent is USD2 896 (R39 848). It would appear that the salary costs are not justifiable and commensurate with the level of remuneration awarded to call centre agents at SAA Head Office. A call centre agent operating in South Africa earns significantly less than that, and as such costs could be reduced;

5.19.1.3.9. We requested information on the average salary for Call Centre Agents at SAA Head Office, and were due to receive this information from Mr Aaron Munetsi. At the date of our report Mr Munetsi has been unable to provide such information, despite our requests dating back to 13 October 2016;

5.19.1.3.10. We are now advised that all requests need to be approved by Mr Joseph Mokoro of the Acting CEO's office;

5.19.1.3.11. Mr Munetsi stated that there is merit for SAA to shut down the Fort Lauderdale office and relocate to New York and operate a city office. Mr Muntesi undertook to provide us with a preliminary business case presented to the CEO on proposals to close and relocate the Fort Lauderdale office. We have requested a copy of the preliminary business case which was yet to be received as at the date of our report;

5.19.1.3.12. According to both, Mr Munetsi and Ms Jacobs there are no risks from an American labor law of closing the Fort Lauderdale office, as SAA is an employee at will and does not have to state any reasons for terminating an employee's contract and/or closing an office; and

5.19.1.3.13. Mr Vilakazi confirmed that the Internal Audit Department has never performed an audit of this outstation.

5.20. Procurement contracts in Fort Lauderdale

5.20.1.1. We obtained and performed a high-level review of a large number of contracts that were signed for the SAA regional office in Fort Lauderdale mainly to determine compliance with the procurement framework within SAA. According to Ms Slabbert, most of the contracts have not been loaded onto the CRM system and we were not able to ascertain whether BAC approval was granted, if due process was followed in appointing these companies and how extensions have been approved. In most instances the contracts had expired and there is no evidence to indicate the renewed approvals.

5.20.1.2. As the Contract Management System at SAA is not being utilised correctly this has resulted in poor contract management concerning the Fort Lauderdale contracts;

5.20.1.3. BAC approval for the relocation of the regional office to Fort Lauderdale was granted on 7 October 2011. A 10-year lease period at an estimated amount of USD4.7 million was approved with an option to terminate after seven and a half years. Mr Theunis Potgieter the GM signed the lease agreement on behalf of

SAA: Commercial and Mr Wolf Meyer (Former: CFO) with, PG Plantation CS One LLC;

5.20.1.4. An extension of the lease was made in 2012 until March 2021. We have requested and are waiting for BAC approval for the extension.

5.21. **Ghost employees**

5.21.1. During our investigation Mr Vilakazi made us aware that the Acting GM: Human Resources had raised the risk of ghost employees within SAA. Consequently, an internal audit was being conducted to identify the possible existence of ghost employees and assess the financial implications thereof;

5.21.1. According to Mr Vilakazi, the audit found that there was no evidence to substantiate the existence of ghost employees on the SAA payroll. While other stations are not on SAP Payroll and are using other systems, they have adequate controls to ensure there are no ghost employees.

5.22. Irregular appointment of Ms Hamid in Malaysia

5.22.1. During the ongoing commercial investigation into SAA's profitability we conducted an investigation into the irregular appointment of Ms Hamid in Malaysia. We were mandated to investigate the following:

5.22.1.1. The irregularities in appointing Ms Hamid;

5.22.1.2. The creation of the cost centre for Malaysia;

5.22.1.3. Salary payments made to Ms Hamid;

5.22.1.4. Alleged ongoing payments made to Ms Hamid;

5.22.1.5. Termination of Ms Hamid's employment; and

5.22.1.6. SAA employees involved in the matter.

5.22.2. Based on interviews carried out and corroborating evidence obtained during follow up interactions with key employees, we identified extensive irregularities relating to the appointment of Ms Hamid. These irregularities are summarised in our report to Mr Mbongeni Manqele, Acting Human Resources Manager dated 22 December 2016, where we recommended disciplinary action be taken against, Ms Mngomezulu; Mr Munetsi; Ms Hamid; Ms Mpshe; and Mr Bosch.

6. KEY FINDINGS TO DATE

PART 2: PROCUREMENT AND GOVERNANCE

6.1. COMPLIANCE FRAMEWORK

6.1.1. Legal Framework

6.1.1.1. The financial management and responsibilities of government Departments and public entities are governed by the Constitution, the PFMA, Treasury Regulations, instruction notes and directives issued by the National Treasury in terms of Section 76 of the PFMA and the relevant organisational policies.

6.1.2. General provisions relating to procurement

6.1.2.1. The constitutional imperatives relating to procurement are encapsulated in Section 217 of the Constitution, which stipulates that when an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective;

6.1.2.2. In terms of Section 51 of the PFMA, it is the general responsibility of the accounting authority to ensure that the public entity has and maintains an appropriate procurement and provisioning system, which is fair, equitable, transparent, competitive and cost-effective. Section 51 (e) also puts the responsibility of taking effective and appropriate disciplinary steps against any employee of the public entity who contravenes or fails to comply with any provision of the Public Finance Management Act on the Accounting Authority, this includes committing any act which undermines the financial management and internal control system of the entity;

6.1.2.3. Section 56 of the PFMA allows the Accounting authority to delegate any of the powers entrusted to the accounting authority in terms of the PFMA to an official in that public entity, however such delegation does not divest the Accounting Authority of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty;

6.1.2.4. Section 76(4)(c) of the PFMA provides that the National Treasury may make regulations or issue instructions applicable to all institutions to which this Act applies concerning, among others, the determination of a framework for an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective; and

6.1.2.5. The Guidelines on Supply Chain Management issued by National Treasury including Supply Management Policies in general also impact on all common-law provisions relating to procurement including laws such as:

6.1.2.5.1. Competition law: Restrictive business practices are regulated by the Competition Act (89 of 1998), which aims to outlaw anticompetitive practices between businesses, their supplier(s) and customers. This includes price-fixing and collusive tender processes;

6.1.2.5.2. Prevention and Combating of Corruption Activities: This Act aims to outlaw corrupt procurement activities; and

6.1.2.5.3. PPP Framework & BBBEE Act: This act aims to ensure that procurement policies are in line with PPP Regulations and BBBEE.

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6.1.3. SAA Procurement Policy (SAA SCM Policy Version 10)

Committee	**Function**	**Composition**	**DOA prior to 28 Sept 2015**	**DOA from 28 Sept 2015**
Cross Functional Sourcing Team	Developing selection criteria and weightings for tenders, compilation and issuing of RFQ/RFI/RFP/RFB, Review of specifications, evaluation of quotations and bids, negotiations with suppliers, promotion of BBBEE, determining supplier performance mechanisms, compilation of reports and making recommendations in line with DOA.	User Department, Any assigned procurement official and/or external specialist advisors. Other functionaries such as SHEQ, Legal, Finance, Risk, BEE etc. participate based on the complexity of the tender.	Makes recommendations to the Head of Procurement, and Bid Adjudication Committee for the award of any contract in line with DOA.	Makes recommendations to the Head of Procurement, and Bid Adjudication Committee for the award of any contract in line with DOA.
Procurement Department (GSM)	Review and approval of the quotation and tender recommendations and final review and approval of contracts awarded.	Head of Procurement and/or the Procurement/Supply Chain Officials	Above R1500 up to R1 million	Above R1500 up to R500,000
Bid Adjudication Committee	Review and approval of recommended bids made by CFST in line with DOA. Recommend bids in excess of DOA to applicable award authority.	BAC shall consist of at least 8 members from SAA Group Executive Committee or Senior Management level 2 within SAA and subsidiaries and shall represent multi-disciplinary skills and a cross section of business units.	Above R1 million up to R50 million.	Above R500,000 up to R25 million
Chief Executive Officer	Appoint BAC members, Approve recommendations for bid awards within DOA, Recommend bids in excess of DOA to	Group CEO.	Above R50 million up to R100 million.	Above R25 million up to R50 million

Committee	Function	Composition	DOA prior to 28 Sept 2015	DOA from 28 Sept 2015
	applicable award authority.			
Procurement and Tender Process Committee	Responsible for reviewing procurement and tender policies and make recommendations to Board, review and recommend bid awards to the Board, recommend SCM policy for approval to the Board.			
Finance, Investment and Procurement Committee	Committee responsible for awarding contracts and tenders within the delegated authority. Overseeing the review of and recommend for approval by Board, policies and procedure manuals that are legally compliant.	4 Non-executive directors of the Board.		Above R50 million up to R100 million
Board of Directors	Review and approval of all bids not delegated. Obtain approval from the shareholder on material and significant matters.	Non-Executive Directors	Above R100 million	Above R100 million

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6.1.4. Summary

6.1.4.1. In terms of our mandate we requested 116 files for review. Of these we received 60 files. Of the 60 files received, 52% of the contracts which is equivalent to 31 contracts were found to be non-compliant with SCM policy and/or PFMA.

6.1.4.2. Most of the contracts that were not submitted for review include amongst others, Jet Fuel Contracts, IT Contracts, Ground Handling Contracts and Catering Contracts.

6.1.4.3. The general findings identified in the 52% non-compliant contracts comprised the following issues:

6.1.4.3.1. Contract extensions to regulate inefficiencies in contract management;

6.1.4.3.2. Abnormal turn-around times for tender processes;

6.1.4.3.3. Poor monitoring of contracts to ensure cost compression outcomes are achieved;

6.1.4.3.4. Delayed procurement processes to keep service providers in the system longer;

6.1.4.3.5. Confined processes which are not competitive nor fair;

6.1.4.3.6. Lack of signed agreements or abnormal delays in signing contracts;

6.1.4.3.7. Ineffective contract management system; and

6.1.4.3.8. Continued payments for services rendered despite the absence of signed contracts.

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6.1.4.4. In the 31contracts that were found to be non-compliant, three of the contracts were found to have overspent on their approved budgets despite cost compression strategy agreed upon, namely:

Supplier	Start Date	End Date	Approved Budget	Payments as at 31 December 2016	Overpayment
HAVAS Worldwide	01 May 2013	30 April 2016	R67 500 000	R115 066 707.95	R47 566 707.95
Havas Worldwide	01 May 2016	Month to month	R10 000 000	R16 200 431.69	R6 200 431.69
CUB3D	01 Feb 2015	31 Jan 2018	R22 800 000	R50 425 245.37	R27 625 245.37
SFU Engineering	01 Nov 2014	31 Oct 2017	R27 210 114.65	R32,204,156.68	R4 994 042.03
Total					R86 386 427.04

6.1.4.5. As a result of non-compliance with SCM policy and/or PFMA regulations, a total amount of R685,036,241.06 was classified as 'irregular' in the following contracts:

	Name of Bidder	Value of tender	Potential Irregular Expenditure	Comment	Date Contract Signed
1.	Reshebile Aviation and Protection Services	R0	R 30 464 105.74	Irregular expenditure due to failure to request extension of contract for the period starting 1 Dec. 2014 to 19 May 2015.	Contract extension based on previous expired contract.
2.	Reshebile Aviation and Protection Services	R155 835 889.00	R129 909 214.44	Irregular payments made without a signed contract	No contract in place as at 28 February 2017, 17 months since the tender was awarded even though

	Name of Bidder	Value of tender	Potential Irregular Expenditure	Comment	Date Contract Signed
					the contract expires in a months' time.
3.	HAVAS Worldwide	R 67 500 000.00	R 53 767 139.64	Irregular expenditure due to overspend	Contract signed on 16 August 2013. (4 months later)
4.	Swissport Tanzania	R 12 262 899.00	R 11 773 279.00	Irregular payments made without a signed contract	Contract not signed as at 31 December 2016. (6 months later)
5.	Skysupply Gmbh	R 99 395 600.00	R 24 659 958.56	Irregular payments made without a signed contract	Contract signed on 14 March 2016. (27 months later)
6.	Gate Gourmet Hong Kong	R 46 882 340.00	R 15 587 147.72	Irregular payments made without a signed contract	Contract signed on 14/05/2014(12 months later)
7.	Gate Gourmet Sao Paolo	R75 829 701.81	R 12 035 276.00 plus irregular payments (o/s)	Loss as a result of cancellation of awarded contract to the existing contractor. (Loss of negotiating power)	Contract signed on 14/05/2015 (12 months later)
8.	CUB3D	R 22 800 000.00	R 50 425 245.37	Irregular payments made without a contract	Contract not signed as at 02/02/2017(24 months later) even though the contract has already been overpaid by R27 625 245.37
9.	Guardforce	R 66 307 575.00	R 18 419 785.86	Irregular payments made without a signed	Contract signed on 22/12/2015. (14

	Name of Bidder	Value of tender	Potential Irregular Expenditure	Comment	Date Contract Signed
				contract	months later)
10.	Dimension Data	R 249 499 824	R 49 948 796.00	Irregular payments made without a signed contract	Contract signed on 11/11/2015. (7 months later)
11.	Avis	R10 m	R9 453 813.68	Irregularly appointed by the business unit and not BAC. payments made without a signed contract	Contract signed on 08/03/2016
12.	Catercraft Harare	R 21 696 648.00	R 7 772 871.64	Irregular payments made without a signed contract	No contract in place as at 31 December 2016, 3 Years since the tender was awarded.
13.	Banalo Trading Enterprise	R 12 028 824	R 2 945 418.00	Irregular payments made without a signed contract	No contract in place as at 31 December 2016, 10 months since the tender was awarded.
14.	Harmony	R 6 118 316	R 5 188 160.09	Irregular payments made without a signed contract	No contract in place as at 31 December 2016, 3 Years since the tender was awarded.
15.	Kees Beyers Chocolate cc	R 11 780 627	R 5 593 779.27	Irregular payments made without a signed contract	No contract in place as at 31 December 2016, 27 months since the tender was awarded.
16.	Gate Gourmet	R99 897 215.35	R29 699 033.77	Irregular payments	Contract signed on

	Name of Bidder	Value of tender	Potential Irregular Expenditure	Comment	Date Contract Signed
	Washington D			made without a signed contract	14/05/2015. (12 months later)
17.	DOALA Air	R11 918 294.00	Finance Department could not provide payment information.	Still awaiting payment information.	No contract in place as at 31 December 2016, 24 Months since the tender was awarded
18.	121 Inflight Catering	R113 145 654.79	Finance Department could not provide payment information.	Still awaiting payment information	No contract in place as at 31 December 2016, 14 Months since the tender was awarded.
19.	Perth Inflight Catering	R85 825 182.59	Finance Department could not provide payment information.	Still awaiting payment information	No contract in place as at 31 December 2016. 14 Months since the tender was awarded
20.	Airline Services and Logistics	R 22 126 097.03	Finance Department could not provide payment information.	Still awaiting payment information	No contract in place as at 31 December 2016, 12 Months since the tender was awarded
21.	KWE (Pty) Ltd	R266 860 021.80	R125 842 711.99	Irregular payments made without a signed agreement.	No contract in place as at 07 February 2017, 29 months since the tender was awarded.
22.	Vusubheki Management	R 15 551 621.45	R 15 551 621.45	The contract was awarded irregularly.	The contract was signed on the 12th of July 2016. (5 months

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	Name of Bidder	Value of tender	Potential Irregular Expenditure	Comment	Date Contract Signed
					later)
23.	Swissport USA Washington	R31,323,392.10	R10 782 954.84	Irregular payments made without a signed contract	Contract not signed as at 31 December 2016. (8 months later)
24.	Entebbe Handling Services Uganda	R16,380,000.00	R7 655 753.22	Irregular payments made without a signed contract	Contract signed on 15 August 2016 (11 months later)
25.	Jardine Airport Services Hong Kong	R25,625,666.31	Finance Department could not provide payment information.	Irregular payments made without a signed contract	Contract signed on 3 October 2014 (5 months later).
26.	Aviance Ghana Kotoka	R27,275,475.00	Finance Department could not provide payment information.	Irregular payments made without a signed contract	Contract signed by unauthorised official.
27.	Lufthansa Munich	R23,465,634.18	Finance Department could not provide payment information.	Irregular payments made without a signed contract	Contract not signed as at 31 January 2017. (2 years and 1 month later)
28.	Skyway Aviation Handling Company Limited Lagos	R17,922,504.60	R8,321,967.75	Irregular payments made without a signed contract	Contract not signed as at 31 January 2017. (1 year later)
29.	TAAG Luanda (Angola)	R15,704,064.00	Finance Department could not provide payment	Irregular payments made without a signed contract	Contract not signed as at 31 January 2017. (1 year and 3 months later)

	Name of Bidder	Value of tender	Potential Irregular Expenditure	Comment	Date Contract Signed
			information.		
30.	Arcus FM Solutions (Pty) Ltd	R97 326 872	R22 945 930	Irregular payments made without a signed contract	Contract signed on 21 April 2016 (18 months later)
31.	Arcus FM Solutions (Pty) Ltd	R28 711 553	R8 046 629	Irregular payments made without a signed contract	Contract signed on 28 February 2016 (16 months later)
32.	SFU Engineering	R23 324 437	R28 245 648.03	Irregular payments made without a signed contract	Contract signed on 19 October 2015 (11.5 months later)
	TOTAL		**R 685 036 241.06**		

6.2. Reshebile Aviation And Protection Services (Pty) Ltd ("RAPS")

6.2.1. Overview

6.2.1.1. We reviewed a number of contracts to determine compliance with the procurement framework within SAA and identified a number of areas of concern. We reviewed the appointment of Reshebile Aviation and Protection Services (Pty) Ltd, hereafter referred to as "RAPS" and noted that they were initially awarded a three-year contract covering the years 2008 to 2011. When the RAPS contract came to an end, we noted that a number of extensions were awarded on said contract. We noted further that a tender process was initiated in 2012 and was subsequently cancelled due to the change of specification and scope. A new tender process was initiated in 2014 wherein 9 ACSA accredited security companies were invited to bid for aviation security and general security services. During the course of the tender process, SAA had to extend RAPS' contract as the contract had expired in January 2011. RAPS' contract was extended in the following manner:

6.2.1.1.1. 01 February 2011 to 31 October 2011;

6.2.1.1.2. 01 November 2011 to 30 April 2012;

6.2.1.1.3. 01 May 2012 to 31 October 2012;

6.2.1.1.4. 01 November 2012 to 28 February 2013;

6.2.1.1.5. 01 March 2013 to 31 May 2013;

6.2.1.1.6. 01 June 2013 to 30 November 2013;

6.2.1.1.7. 01 December 2013 to 30 November 2014; and

6.2.1.1.8. 01 December 2014 to 30 September 2015.

6.2.1.2. The above extensions were supported by the BAC and approved by the CEO or delegated official in line with the delegation of authority. The tender process was concluded and finally awarded on the 26 August 2015 as follows:

6.2.1.2.1. Physical and aviation security services to Reshebile Aviation and Protection Services at an estimated amount of **R155 835 889.00** inclusive of VAT; and

6.2.1.2.2. Specialised security services to Securitas Specialised Services at an estimated amount of **R25 909 368.00** inclusive of Vat.

6.2.2. The following key findings are noted:

6.2.2.1. In the usual course of business, tender processes are undertaken within a reasonable period, however, in this instance the tender processes relating to this award took approximately 56 months to finalise. The manner in which this process unfolded is inconsistent with the established SCM principles and objectives which strive to ensure that SAA SCM processes are carried out in a cost-effective manner;

6.2.2.2. In order to regularise the contract of RAPS after its initial expiry date, the contract was extended at least eight times before the tender was finally awarded to RAPS. Even though the SCM policy

provides for contract extensions, it does not provide guidelines under which contract extensions can be made, to prevent the abuse of such provision;

6.2.2.3. The total payments made to RAPS during the period of extensions amounted to R383, 359,769.00 over a period of 56 months. This is an illustration of a Supply Chain Management system that is not efficient and cost effective as evidenced in the R383, 359,769.00 cost incurred during the contract extensions period. It should be noted that the cost incurred over the period is not classified as 'irregular' due to the provision in the SCM policy which allows for extensions;

6.2.2.4. There was no documentation to support the extension process for the period 1 December 2014 to 19 May 2015. The total amount incurred during this period amounted to R30, 464,105.74. Based on the discussion held with the procurement specialist, Ms Kwinda, there was an oversight from their side in terms of requesting for an extension which was exacerbated by the delay in the decision making process;

6.2.2.5. The contract negotiations and authorisation of the latest contract awarded on 26 August 2015 was still in progress as at 1 December 2016, a period of 15 months after the award was approved by the Board. Our follow up as at the 28th of February 2017 revealed that the contract had still not been signed even though the contract was on the verge of expiring on the 31 March 2017. The interviews held with the GSM revealed that the absence of an effective contracts management has led to a situation where the accountability regarding finalising contracts is shared between the GSM, Legal and Business units. This practice of not signing contracts on time exposes SAA to a risk of financial losses where the service provider fails to perform based on their scope as SAA would not be in position to implement penalties and corrective action. Failure to sign contracts with service providers contributes to non-compliance with Section 10.5.1 of the SCM Policy in that the SCM team will not be able to evaluate performance against contractual deliverables;

6.2.2.6. In our interview with the HOD: Legal, Fikile Thabethe, she indicated that amongst the reasons for the delay in signing contracts is the failure of the GSM to own the contract management process as well as lack of detailed business processes identifying the roles of different stakeholders, their responsibilities and timeframes within-which each stakeholder must respond. She also mentioned that there is also a challenge in terms of improving the current processes due to some form of resistance to change by some officials who have been at SAA for long periods. The other point she alluded to was that in some instances contracts are negotiated and signed without the involvement of Legal. In our interview with the HOD: GSS, Linga Moonsamy, he indicated to us that his hands are tight as he is unsure as to why the contract is still not signed. He expressed his frustrations in that he is struggling to enforce penalties against RAPS as they refuse to pay or implement corrective action in the absence of the signed contract;

6.2.2.7. Payments to the value of R129,909,214.44 were made to RAPS during the period 1 October 2015 to 20 February 2017 despite the absence of a signed contract. Payments made to RAPS without a signed contract should be classified as 'irregular';

6.2.2.8. The current contract expires at the end of March 2017, however SAA has not yet initiated a tender process for aviations security services. The implication is that the current contract will be extended again until the tender process is initiated and the contract is awarded. In our follow-up interview on 07 March 2017 with Mr Moonsamy, he indicated that they have requested an extension of the contract for 6 months starting from 01 April 2017 to 30 September 2017 while they start the procurement process for security services.

6.2.2.9. The contract register shows the contract amount as R280 million while the approved award as per the minutes of the Board shows R155,835,889 inclusive of VAT. Based on an analysis of the contract register, it was discovered that the amount reflected as the contract value of R280 million was actually the overall budget for security services. The correct way of compiling the contract register

would have been to record the amount approved by the approving authority for fair reflection of the value of the contract;

6.2.2.10. There has been non-compliance with PFMA Section 57 (a) and (c) in that irregular expenditure was incurred as a result of payments made without a signed contract regulating the relationship between SAA and RAPS;

6.2.2.11. There has been non-compliance with SCM Policy Section 10.5.1 in that the SCM team is unable to evaluate the performance of RAPS against agreed contractual deliverables due to the absence of a signed contract. In the absence of a signed contract SAA is not in a position to implement corrective action in line with the conditions of the contract and as such, monitoring and evaluation of the performance of the service provider becomes a challenge;

6.2.2.12. There has been non-compliance with SCM Policy Section 23.1 in that the absence of a signed contract puts SAA in a compromised position in terms of managing risks associated with this tender. SAA is exposed to the risk of failing to hold RAPS accountable for any deviation from the scope;

6.2.2.13. There is non-compliance with SCM Policy Section 25.1.3.5 in that payments were made without a signed contract when the policy states that all contracts with a value of R1 million or more should have a valid contract and no payments will be effected if no contract is in place;

6.2.2.14. This has resulted in a loss of negotiating power where contracts are negotiated under pressure due to delays in initiating the procurement process;

6.2.2.15. Irregular payments to the value of R129,909,214.44 were made without signed contracts;

6.2.2.16. Payments to the value of R30,464,105.74 were made during the period 1 December 2014 to 15 May 2015. No evidence was presented for the extension applicable to this period, hence the payments should be classified as 'irregular';

6.2.2.17. Failure to implement penalties as a result of non-performance may result in financial losses for SAA;

6.2.2.18. The Contract Management System is not utilised correctly by SAA resuling in poor contract management;

6.2.2.19. There is a lack of clarity regarding accountability in relation to finalising contracts. The responsibility is currently shared between Legal, the GSM and Business Units;

6.2.2.20. Poor monitoring and evaluation of performance of the service provider due to failure to conclude contract negotiations timeously while the service provider continues to render services.

6.2.3. The following recommendations are made:

6.2.3.1. The SAA Board exercises its authority in terms of Section 51 of the Public Finance Management Act by providing the respective Executives responsible for Global Supply Chain Management, Legal Services, Finance and Group Security Services with an opportunity to explain the following:

6.2.3.1.1. Their failure to ensure that the contract is signed within a reasonable period. A contract awarded for 18 months was still not finalised after 17 months;

6.2.3.1.2. Their failure to prevent an irregular expenditure of R129,909,214.44 as a result of payments made without a signed contract;

6.2.3.1.3. Why procurement of security services took almost 56 months to conclude?

6.2.3.1.4. How the penalties against RAPS were implemented in the absence of a signed contract?

DRAFT
COMMISSION OF INQUIRY INTO STATE CAPTURE

6.2.4. General Comment

6.2.4.1. SAA will soon be going out on a tender for security. This presents an opportunity for SAA to reassess its security contracts and review the scope of security to ensure that costs are minimised. The current expenditure for a period of 18 months was about R180 million. This is likely to escalate if SAA fails to intervene now. The scope of security should be carefully analysed and every aspect should be justifiable to match the cost and benefit for SAA. SAA should have been enjoying the benefits of the Capex investment into the security infrastructure by now as a result of an inverse relationship between the investment in the security infrastructure and security costs.

6.2.4.2. This also presents an opportunity for SAA to review the security element of ground handling contracts and security contracts in terms of streamlining security operations and apportioning security responsibilities between ground handling service providers and security service providers. This will include the review of SAA security in relation to ACSA security. Results of this intervention should lead to a reduction in security costs and savings for SAA. This will also allow SAA to influence the ground handling contracts in a manner that protects the interests of SAA on security related operations.

6.3. GUARDFORCE INTERNATIONAL (PTY) LTD

6.3.1. Overview

6.3.1.1. Guardforce was initially awarded a three-year contract covering the period from 1 October 2014 to 30 September 2017 and this was subsequently extended further for a 2-year period from October 2017 to September 2019. The following service providers submitted their bids for handling valuable and vulnerable cargo:

6.3.1.1.1. Guard Force International (Pty) Ltd

6.3.1.1.2. Rand Refinery (Pty) Ltd

6.3.1.1.3. Brinks Incorporated SA

6.3.1.2. During May 2014, a request to ACSA was sent for a list of all security service providers who are accredited/licensed to operate at the OR Tambo International Airport on handling the valuable and vulnerable cargo. ACSA indicated that only Guard Force International is accredited to operate at O.R Tambo International for handling valuable and vulnerable cargo.

6.3.1.3. The confined bid was finally approved and awarded on 8 August 2014 to Guardforce to provide service of handling valuable and vulnerable consignments at OR Tambo International Airport from the 1October 2014 to 30 September 2017. Immediately after the contract was awarded, an email was sent by Mr Lionel Le Roux (Sourcing Specialist) ("Mr Le Roux") to Mr Gideon Horn (Executive Manager Cargo Operations) ("Mr Horn") informing him about the review and renegotiation process that was initiated by the CEO and CPO, Dr Masimba Phillip Dahwa ("Mr Dahwa"), to renegotiate the contract to save money by looking at costs and payments terms.

6.3.1.4. Meetings were held for the extension of 3-year contract to a 5-year contract on the following dates:

6.3.1.4.1. 29 October 2014 – possibilities to extend between SAA and GFIT

6.3.1.4.2. 19 December 2014 – BAC resolved to support and recommend to the CEO

6.3.1.5. The extension of a contract with Guardforce for the provision of the handling of valuable and vulnerable cargo service was finally approved by Mr Nico Bezuidenhout (Acting CEO) ("Mr Bezuidenhout") on 4 February 2015 for a period of the five (5) years at a cost of R66,307,575.00

6.3.2. The following key findings are made

6.3.2.1. The contract negotiations took almost 10 months to be finalised and as a result Guardforce continued to render a service without a signed agreement;

6.3.2.2. SAA continued to make payments to Guardforce amounting to R18,419,785.86 without a signed agreement;

6.3.2.3. The 3-year contract was extended to 5-year contract immediately after the award of a 3-year contract which could potentially expose SAA to anti-competitive practices which have an effect in substantially preventing or lessening competition at SAA;

6.3.2.4. The recommendation to the Acting CEO stated that the costs saving for the extension of a contract will result in a saving of (10%) R6,266,106.00. However our recalculation indicates that only 5% will be saved as a result of the extension; and

6.3.2.5. The decision to extend the existing contract instead of following a proper tender process, without a deviation notice or emergency motivation, appears to be in contravention of the National Treasury regulations on supply chain management and PFMA.

6.3.3. The following recommendations are made:

6.3.3.1. The SAA Board exercises its authority in terms of Section 51 of the Public Finance Management Act by directing SAA management to implement the following:

6.3.3.2. Review of the Confinement section in the SCM policy to include clear guidelines in terms of how the policy should be applied to avoid the abuse and manipulation of the policy;

6.3.3.3. Review of the contract extensions in the SCM policy to include clear guidelines in terms of how the policy should be applied to avoid the abuse and manipulation of the policy;

6.3.3.4. SAA should implement an effective contract management system to address inefficiencies in the procurement of goods and services; and

6.3.3.5. Streamlining of contracting processes between the GSM, Legal and Business units.

6.3.4. VUSUBHEKI MANAGEMENT SERVICES

6.3.5. Overview

6.3.5.1. Vusubheki Management Services was initially awarded a three-year CCTV Maintenance contract starting from 01 July 2012 to 30 June 2015. On 05 March 2015, Naomi Kwinda compiled a document titled "*Request to approve the nomination of Cross Functional Sourcing Team (CFST) members*". The document was duly authorised by responsible officials. On or around the 19 June 2015, the GSM through the sourcing specialist, Ms Naomi Kwinda ("Ms Kwinda"), requested the BAC to extend Vusubheki's contract by two years. This request was rejected by the BAC with an instruction for the business unit to go out on an open tender. On 26 June 2015, another submission was presented to the BAC to extend Vusubheki's contract for period of 6 months until 31 December 2015, while the business unit was busy with the tender process. The submission was approved on a round robin basis. On or around 4 October 2015, the GSM sent out an advert for CCTV Maintenance and Installation titled RFP-GSM 063/15. A mandatory tender briefing session which was attended by 43 companies was held on 13 October 2015. On 14 October 2015, Ms Kwinda sent an email to service providers advising that the closing date was extended from 20 October 2015 to 27 of October 2015.

6.3.5.2. On or around September 2015, Ms Kwinda, compiled and signed a memorandum addressed to the Chief Procurement Officer for the approval of proposed members of BSC and BEC. The memorandum was signed by GM/HOD for respective proposed members.

6.3.5.3. The following final three (3) bidders were evaluated for functionality while the other entities were eliminated for failing to meet the requirements of critical evaluation:

6.3.5.3.1. GBRT Security Services CC

6.3.5.3.2. Mobeni Integrated Systems

6.3.5.3.3. Vusubheki Management Services CC

6.3.5.4. The followings bidders' percentages were stated on BAC submission as the total points per bidder scored against the 70% threshold:

Bidders' name	**Score %**
GBRT Security Services CC	60%
Mobeni Integrated Systems	85%
Vusubheki Management Services CC	100%

GBRT did not meet the threshold and was eliminated.

6.3.5.5. The tender was eventually awarded to Vusubheki Management Services at an estimated cost of R13, 641,773.20 for a period of 3 years.

6.3.6. The following key findings are made:

6.3.6.1. The document purporting to be a memorandum titled "Request to approve the nomination of BSC & BEC Members" signed by Ms Kwinda as the Commodity Manager was forged and fraudulent in that it had forged signatures that were presumably signed by respective Heads of Departments listed on the document.

6.3.6.2. Ms Kwinda misled the BAC when she claimed in the submission document submitted to BAC that the evaluation criteria and weightings were approved by the BAC on 28 September 2015. The evaluation criteria and weightings for the CCTV tender was never presented to the BAC for approval in line with Section 1.5 of BAC Terms of Reference.

6.3.7. General Comment

6.3.7.1. A detailed investigation was conducted and a separate report is attached for further details.

6.3.8. HAB FIRE & SECURITY

6.3.9. Overview

6.3.9.1. The original contract (Services Agreement) between HAB Fire and Security and SAA was concluded and signed off by SAA on 7 April 2009. The term of the contract was for three years which commenced on 1 November 2008 ending on 31 October 2011. This contract was further extended 10 times from 1 November 2011 to current date.

6.3.9.2. On or around October 2013, a process to procure new X-Ray Machines on a higher purchase basis was initiated. The cost for a period of 3 Years was estimated at R37,750,270.00 with an option to extend the maintenance agreement for 2 years. In a submission for the approval of the evaluation criteria and weightings by the BAC, the GSM motivated for the procurement of new X-Ray machines based on the following reasons:

6.3.9.2.1. The minimum standards required by the Transportation Security Administration (TSA) on X-Ray machines have been escalated. SAA follows the TSA standards due to their regulation being the most stringent and the requirements imposed on the flights to the US.

6.3.9.2.2. SAA Cargo facilities are not in compliance with the latest internationally recognised standards hence the reason for the request to go out on tender to procure machines that are compliant with legislation.

6.3.9.3. The tender was advertised on 20 October 2013 with a closing date on 5 November 2013. The following bidders responded positively to the tender:

6.3.9.3.1. Morpho SA (Pty) Ltd

6.3.9.3.2. HISSCO (Pty) Ltd

6.3.9.3.3. Totalpost (Pty) Ltd

6.3.9.3.4. R&D Screening Technologies (Pty) Ltd

6.3.9.3.5. HAB Fire & Security (Pty) Ltd

6.3.9.4. Three companies were shortlisted after the evaluation of critical criteria, namely:

6.3.9.4.1. HAB Fire & Security (Pty) Ltd

6.3.9.4.2. HISSCO (Pty) Ltd

6.3.9.4.3. Totalpost (Pty) Ltd

6.3.9.5. The final scores after the evaluation of bidders were as follows:

	HAB	**HISSCO**	**TOTALPOST**
Price	R48 980 302	R40 079 988	R37 750 270
Price Score	63%	84%	90%
BBBEE Score	9%	10%	5%
Overall Score	**72%**	**94%**	**95%**

6.3.9.6. On 13 June 2014, the BAC approved the final award for an estimated cost of R37,750,270 to Totalpost (Pty) Ltd. In support of the submission for approval of this tender a due diligence was performed indicating the following:

6.3.9.6.1. "*The Bidder appears to be solvent (solvency ratio=1.7) and Liquid (Current ratio=1.4). The debt equity ratio is 1.5, which indicates that the bidder has some borrowing. The bidder has presented audited financial statements dated 31 December 2012 for review. The bidder received an unqualified opinion. The entity has been profitable over the past 2 financial periods. The annual value of the contract amounts to approximately 3% of the bidders' revenue and 85% of the cash holding at year end. This indicates that the contract is not*

material to the bidder from a revenue perspective. Based on the above, the risk for this bidder has been assessed as LOW."

6.3.9.7. Subsequent to the award of this tender to Totalpost, the bidder was not able to raise funding for the purchase of X-Ray machines. The GSM intervened through Treasury and Finance to assist Totalpost and this did not materialise. On 14 November 2014, the GSM prepared a submission for notification to retract the award of Totalpost and this was duly noted by the BAC. On 27 February 2015, the BAC noted the withdrawal of the award and subsequently, the GSM proceeded with the withdrawal of the award on 3 March 2015. In light of the cancellation of this tender, the GSM through the procurement specialist extended the contract of HAB Fire & Security (Pty) Ltd to continue providing maintenance work on X-Ray machines. Totalpost thereafter demanded damages in the amount of R34 168 300.00 and a further R9 000 000.00 consequential damages, however they did not pursue legal action against SAA.

6.3.9.8. The following is an extract from the minutes of the meeting of BAC on 14 November 2014:

6.3.9.8.1. Sourcing of X-Ray Machines

6.3.9.8.2. "*The BAC considered the notification to purchase the X-Ray Machines instead of a lease as initially approved, which would cost SAA an estimated amount of R31 million (to result in an estimated cost avoidance of R6.1 million). It was stated that it was not clear where business obtained the capex budget as initially they budgeted for the lease which was an opex. It was noted that the capex approval was facilitated through the CFO: Cargo who understand the governance processes. A concern was raised on the purchasing as currently SAA has obsolete machines on board and that it was not clear as to what would happen to the new machines should the TSA (Transportation Security Administration) requirements get changed. It was*

stated that the existing machines were non-compliant to the new TSA requirements. It was queried why business does not procure the machines directly from the manufacturer instead of going through an intermediary".

6.3.9.9. A concern was noted on the purchase financial cost to be made taking into account the financial situation of SAA. It was also noted that leasing would require monthly rental costs unlike outright purchase. It was not clear whether the new machines were eligible for upgrade. It was added that the submission was also not clear as to why business did not consider to award to the second highest scored bidder since the awarded bidder is unable to meet the business requirement of leasing, which could have been a viable option when the award was tabled.

6.3.9.10. On 14 November 2014, the BAC Resolved and referred back for rework the following:

6.3.9.10.1. To refer back to business the purchase the X-Ray Machines instead of a lease as initially approved, which would cost SAA an estimated amount of R31 million (to result in an estimated cost avoidance of R6.1 million), with the following COMMENTS:

6.3.9.10.1.1. Business should clarify the total cost of ownership associated with the two options of outright purchase versus leasing on all the bidders.

6.3.9.10.1.2. Business should provide the total cost of ownership if the machines are procured directly from the manufacturer.

6.3.9.10.1.3. Business should clarify why not re-evaluate and consider the second highest scored bidder since the

awarded bidder is failing SAA in terms of leasing.

6.3.9.10.1.4. *Business should clarify the capex in line with the estimated spend as opex cannot be used for the machines.*"

6.3.9.11. On 10 June 2016, the BAC approved the cancellation of the above X-Ray Machine and Maintenance tender with the condition/follow up action that the CPO is informed of the decision taken by the BAC.

6.3.10. The following key findings are made in relation to HAB Fire and Security:

6.3.10.1. HAB was appointed in 2008 for a period of 3 years ending in 2011. The contract was extended from 1 November 2011 until 30 July 2017 for the maintenance of X-Ray Machines, an extension of 5 Years and 8 months.

6.3.10.2. The following irregularities were identified in the letters of extension for HAB Fire and Security:

6.3.10.2.1. The second and third letter of extension dated 1 November 2012 to 31 October 2013, and 1 November 2013 to 31 March 2014 respectively, have similar signatures and dates which may indicate that the signatures were copied and pasted from one document to the other;

6.3.10.2.2. The fourth letter of extension dated 01 April 2014 to 31 July 2014 indicates that it was signed on 15 October 2013 which is incorrect. This again could indicate that the signatures were copied from one document to the other;

6.3.10.2.3. The sixth letter of extension dated 01 November 2014 to 28 February 2015 has the signatures of the CEO and CPO which appears to have been copied and pasted from other documents;

6.3.10.2.4. The seventh letter of extension dated 1 March 2015 to 31 August 2015 has the signature of the service provider which appears to have been copied and pasted from the fifth letter of extension dated 1 August 2014 to 31 October 2014;

6.3.10.2.5. The eighth letter of extension dated 1 September 2015 to 29 February 2016 has the signatures of the CEO and CPO which appears to have been copied and pasted from other documents; and

6.3.10.2.6. The ninth letter of extension dated 1 March 2016 to 31 August 2016 appears to have been signed on 20 May 2015 while the extension was approved by the BAC and CEO on 4 March 2016 and 4 April 2016, respectively. The date of signature on the letter of extension appears to be inaccurate.

6.3.11. The following key findings are made in relation to Total Post:

6.3.11.1. Total post (Pty) Ltd which was awarded the tender was registered with CIPC on 4 July 2013;

6.3.11.2. The request for proposal was initiated on or around October 2013 based on the version 1 document prepared by the GSM;

6.3.11.3. The submission presented to the BAC for approval on 6 of June 2014 shows a financial due diligence outcome indicating that Totalpost submitted Audited Financial Statements for a period of 2 years even though the company was registered on 4 July 2013. It appears that financial statements submitted were for their strategic partner named Totalpost Plc. based in the United Kingdom;

6.3.11.4. The submission presented to BAC also indicates in a financial due diligence that Total post was profitable for the 2 audited financial years presented for review, however, as indicated above, the financial statements submitted belonged to their strategic partner based in United Kingdom;

6.3.11.5. Totalpost was assessed as capable of borrowing funds based on the financial due diligence performed by CFST and as such,

assessed as low risk entity for SAA. It has since been verified that Totalpost was not capable of raising funds as their entity was a start-up company with no trading reference at the time of tendering for this bid;

6.3.11.6. The submission to BAC for notification of cancellations also states that CFST was instructed to revert back to all bidders who were shortlisted except Totalpost for further engagement since the award to Totalpost was withdrawn however, there is no evidence that HISSCO was approached as the second bidder in line to be awarded this tender;

6.3.11.7. Subsequent to the failure of Totalpost to raise funding, the GSM took a decision to cancel the contract and notify the BAC. A submission for the cancellation of the tender was subsequently submitted to BAC on 10 June 2016, the BAC approved the submission;

6.3.11.8. There is no evidence presented to prove that the GSM acted on the instruction of BAC to engage the bidders between the period 14 November 2014 and 10 June 2016;

6.3.11.9. The tender was cancelled by the GSM and SAA reverted back to HAB contract for maintenance of the existing X-Ray machines. The motivation for procurement of new X-Ray Machines was as a result of SAA Cargo not complying with US Transportation Security Administration (TSA) which would have resulted in SAA not being able to send Cargo to US. The tender was cancelled despite the risk of non-compliance with US Transportation Security Administration as motivated by the GSM;

6.3.11.10. SAA were at risk of exposing themselves to a potential legal suit if HISSCO had been aware that the CFST did not adhere to the BAC's recommendation to revert back to the second highest bidder;

6.3.11.11. The costs of the entire tender process and the legal opinion received was fruitless and wasteful expenditure as the tender was cancelled;

6.3.11.12. The following questions were raised with Ms Kwinda and her line manager regarding this tender:

6.3.11.12.1. Why was this tender initiated from the start if it was not critical?

6.3.11.12.2. How was the budget of R37million arrived at?

6.3.11.12.3. Why was the tender cancelled if it was critical for SAA to procure X-Ray Machines given that they were not compliant with TSA standards?

6.3.11.12.4. Why was it not given to the second bidder given that Totalpost failed to raise funds?

6.3.11.12.5. How possible is it that a company that was registered 3 months before the tender was advertised would have been able to submit 2 years audited financial statements for this tender and raise funding for a tender of over R30m?

6.3.11.13. These questions remain unanswered; neither the Commodity Manager nor the Sourcing Specialist, Ms Kwinda provided a response to these questions.

6.3.12. The following recommendations are made:

6.3.12.1. The SAA Board exercises its authority in terms of Section 51 of the Public Finance Management Act by providing Executives responsible for Global Security Services and Global Supply Chain Management with an opportunity to explain the following:

6.3.12.1.1. Why was the tender cancelled if it was critical for SAA to procure X-Ray Machines?

6.3.12.1.2. The failure by the Sourcing Specialist to implement the instruction of the BAC to consider other bidders in light of the failure of Totalpost to raise funding for the procurement of X-Ray Machines.

6.3.12.1.3. Irregularities in the letters of extensions related to HAB Fire and Security, compiled by the Sourcing Specialist, Naomi Kwinda.

6.3.12.2. Failure to provide satisfactory responses should result in appropriate steps taken against responsible officials in line with Section 51 (e).

6.3.13. General Comment

6.3.13.1. The same sourcing specialist, Ms Kwinda, was involved in the award of the irregular tender to Vusubheki Management Services where she misled the BAC and also falsified documents to ensure the award of the contract. This reflects a lack of accountability and consequence management by SAA which, if allowed to continue could result in significant wasteful expenditure as well as the obvious bad precedent set for other offenders.

6.3.14. HAVAS WORLDWIDE (PTY) LTD

6.3.15. Overview

6.3.15.1. An open tender process for global advertising services was initiated on or around September 2012. A total of nine (9) bidders responded positively to the tender with six (6) entities complying with the critical criteria requirements. The following evaluation phases were approved by the executive committee:

6.3.15.1.1. Phase 1 A – Compliance to Critical Evaluation Criteria,

6.3.15.1.2. Phase 1 B – Case Study Evaluation Criteria

6.3.15.1.3. Phase 2 – Pitch Presentations (Functionality)

6.3.15.1.4. Phase 2 – Pricing & BBBEE Evaluation Criteria

6.3.15.2. The outcome of evaluation Phase 1 B resulted in the following five (5) bidders shortlisted from the highest rank to the lowest, while the other bidder was disqualified due to the score that was below 50%

Bidder	Score	Ranking
Ogilvy Johannesburg (Pty) Ltd	72%	1
MMS Communications SA (Pty)Ltd	67%	2
Ireland Davenport (Pty) Ltd	63%	3
The Jupiter Drawing Room (Pty) Ltd	60%	4
Havas Worldwide (Pty) Ltd	50%	5

6.3.15.3. A further evaluation of Phase 2 on functionality was carried out on the top five bidders from Phase 1B. The threshold set by the Executive Committee on this phase was 90% for any entity to progress to the last phase of price and BBBEE consideration. The outcome of Phase 2 functionality evaluation resulted in the following scores from the highest to the lowest ranking:

Bidder	Score	Ranking
Havas Worldwide (Pty)Ltd	91%	1
MMS Communications SA (Pty)Ltd	80%	2
Ireland Davenport (Pty) Ltd	74%	3
The Jupiter Drawing Room (Pty) Ltd	60%	4
Ogilvy Johannesburg (Pty) Ltd	59%	5

6.3.15.4. The functional evaluation process resulted in Havas Worldwide progressing to the pricing stage due to the threshold set at 90% for functionality. This resulted in all other bidders being disregarded for price and BBBEE consideration due to their scores falling under 90% threshold. The tender was finally awarded by the Acting CEO based on the support of BAC to HAVAS WORLDWIDE on 13 April 2013 with a note indicating that the contract is effective from 1 May 2013. The total contract amount awarded to HAVAS amounted to R67,5 million for a period of three years as approved in the budget for global advertising services. The award was arrived at after negotiations with HAVAS WORLDWIDE to reduce their pricing in order to be in alignment with the Long-Term Turnaround Strategy (LTTS) adopted by the Board.

6.3.15.5. A close analysis of the evaluation process reveals the following consolidated outcome of Phase 1B and Phase 2 of the evaluation:

Bidder	Score (Phase 1B)	Score (Phase 2)	Ranking
Havas Worldwide (Pty)Ltd	50%	91%	1
MMS Communications SA (Pty)Ltd	67%	80%	2
Ireland Davenport (Pty) Ltd	63%	74%	3
The Jupiter Drawing Room (Pty) Ltd	60%	60%	4
Ogilvy Johannesburg (Pty) Ltd	72%	59%	5

6.3.15.6. On or around February 2016, a process of procuring global advertising services was initiated by the business unit given that the contract was about to expire at the end of April 2016. In addition to this process was the request to extend the contract of Havas Worldwide for a period of six (6) months at an estimated amount of R22,23 million inclusive of VAT to align it with other SMME's

contracts. The request to extend the contract was supported by BAC on 8 April 2016. On 4 July 2016 a submission was compiled by the GSM for FIPCO for supporting the extension of Havas contract at an estimated amount of R10 million inclusive of VAT instead of R22,23 million. On 18 August 2016, FIPCO represented by Dr J Tambi supported and approved the extension of the contract at R10 million inclusive of VAT subject to month to month until finalisation of the tender. On 23 August 2016, a submission to the Board was compiled by the GSM for the Board to approve the extension of the contract for Havas worldwide.

6.3.16. The following key findings are made:

6.3.16.1. The total amount paid under this contract amounted to R115,066,707.95 as at 30 April 2016, against an approved budget of R67.5 million. Therefore, the budget was exceeded by R47.56 million at the end of April 2016 despite the cost compression culture that was in force, as adopted in the Long-Term Turnaround Strategy within the organisation;

6.3.16.2. A further R16,200,431.69 was paid to Havas from 1 May 2016 to 30 December 2016. These payments were based on the request for an extension which was supported by BAC, ACEO and approved by FIPCO. The extension in the amount of R10 million inclusive of VAT was approved. No process was undertaken to regularise the variation of R6,200,431.69. This contract is still ongoing while the tender processes are still underway;

6.3.16.3. Based on the Interview with Ms Thipe on 2 February 2017, she indicated that they don't have a system that alerts them if they exceed the budget. She also confirmed that she was not aware that they had exceeded the budget. She highlighted that in terms of the Departmental budget they are still within the budget hence the purchase orders coming through are approved. Their challenge is on monitoring a specific budget against what was approved as their systems are not configured to provide such information;

6.3.16.4. The decision record submitted as evidence for the extension of the contract was signed by Dr J Tambi alone, this is not compliant with the terms of reference for FIPCO under section 3.7.1. The section

states that "*Subject to the provisions of Companies Act and the Memorandum of Incorporation, a resolution* ***signed by all members and approved by the majority of all the members*** *of the committee shall be deemed to constitute a resolution of the Committee*". It should be noted that the FIPCO meeting formed a quorum as the Chairperson of the Board participated via a teleconference call;

6.3.16.5. Provisions of the contract signed between SAA and Havas allowed for an opportunity for HAVAS to invoice beyond the approved budget as it was an open contract based on rates. The motivation by the BAC through the GSM which suggested that there was a savings in this contract turned out to be inaccurate as the final payments made to HAVAS exceeded what was approved by the ACEO;

6.3.16.6. The tender processes took six (6) months to finalise, which resulted in extensions of the previous contract to accommodate the delays. The procurement process to appoint a new service provider was initiated around February 2016, and 12 months later, the procurement process is still not finalised, which effectively implies that the provision of contract extensions will continue to be used while the process is still underway. This practice continues to expose SAA to financial losses due to the loss of negotiating power especially where a service provider is on an open contract based on rates. This also implies that the contract management system and decision making processes are not efficient; and

6.3.16.7. Contract negotiations and finalisation took four (4) months to conclude which means that payments were made on the basis of the letter of award for that period.

6.3.17. The following recommendations are made in this regard:

6.3.17.1. The SAA Board exercises its authority in terms of Section 51 of the Public Finance Management Act by providing the Executives responsible for Marketing and Finance with an opportunity to account for contravening Section 5.3.1 and 11.17 of the SCM Policy as well as Section 57 (a) and (c) of the PFMA for incurring an irregular and unauthorised expenditure of R53 767 139.64.

6.3.18. CUB CONSULTING CC T/A CUB 3D

6.3.19. Overview

6.3.19.1. This was an open tender request to the BAC for the appointment of a South African based Brand Design Agency. The business case for the Brand Design Services Tender was approved on 25 August 2014 and included all Departments, divisions and subsidiaries (Technical, Cargo, and Voyager). The previous contract which was awarded in 2012 for the SAA group excluded Mango and Airchefs. The BAC approved the Evaluation Criteria and Weightings on 3 October 2014. On 14 October 2014, an RFP was issued with a closing date of 28 October 2014 and a compulsory briefing session on 16 October 2014. The RFP also stated in the scope of work that the bid included all Departments, divisions and subsidiaries (Technical, Cargo, and Voyager). The SAA BAC Recommendation also included the scope of work which was to include all Departments, divisions and subsidiaries (Technical, Cargo, and Voyager);

6.3.19.2. Of the 15 bidders that responded to the RFP, 4 were shortlisted and this resulted in the approval of the award on 16 January 2015. The BAC approved the award of the contract for Brand Design Services to Cub 3D Consulting CC t/a Cub 3D, for a period of 3 years, effective from 1 February 2015 to 31 January 2018 for an amount of R22,800,000. The LOA was sent to Cub 3D on 22 January 2015 congratulating them on being awarded the contract effective 1 February 2015 to 31 January 2018; and

6.3.19.3. On 3 June 2016, a submission was made to BAC to note that the contract for the provision of brand design services cater for the entire SAA Group including Airchefs SOC Ltd, which submission was noted by the BAC on the same day. On 12 June 2016, and internal memorandum was sent to the HOD of legal services to obtain sign off for Business to conclude an agreement with CUB3D Consulting. The duration was for a period of 3 years commencing on 1 February 2015 at a budgeted cost of R22,800,000 for the period of the agreement. This internal memorandum was signed off by Head of Legal on 13 June 2016.

6.3.20. The following key findings are made

6.3.20.1. The BAC "Final Selection Recommendation" dated 5 December 2014 was copied and pasted into with the incorrect information. The "Purpose" paragraph requests the BAC to approve the award for the period 1 January 2014 to 31 December 2017. The BAC approved the recommendation on the 16 January 2015, although the recommendation they approved was to award the contract for the period 1 January 2014 to 31 December 2017, when in fact, the correct date was 1 February 2015 to 31 January 2018;

6.3.20.2. On 3 June 2016, the BAC was requested by the GSM to note that the Contract for the Provision of Brand Design Services caters for the entire SAA Group including Air Chefs SOC Ltd. At this stage an estimate of the payments made to Cub3D was R29,521,963.65 which was already over the budget of R22,800,000.00 for the three-year period and yet the GSM recommended to BAC that there are no risks or PFMA implications;

6.3.20.3. The critical evaluation criteria were applied too stringently in that certain bidders were disqualified without being given the opportunity to clarify their positions. E.g. Some bidders were disqualified for not specifying the duration of experience on their references;

6.3.20.4. Payments made to Cub3D from 6 March 2015 to 8 February 2017 amounted to R50 425 245.37, which was already above the R22 800 000 contract awarded. There is already over 100% deviation, while the contract still has about 12 months left to run;

6.3.20.5. At the time of writing this report, the Department had not started with the process of regularising the variation of R27 625 245.37 incurred thus far;

6.3.20.6. The contract had not yet been signed as at 2 February 2017, 24 months later. The practice of relying on "LOA's" to make payments is not supported by any policy within SAA. This continues to expose SAA to the risk of financial losses should a dispute arise during the execution of the contract;

6.3.20.7. Although the submission was made to BAC to note that the award included Air chefs SOC, it is to be noted that the business case, RFP and BAC recommendation had already pointed out that the tender included all Departments, divisions and subsidiaries (Technical, Cargo, and Voyager). Air chefs SOC is a wholly owned subsidiary of SAA;

6.3.20.8. An interview was held with Thabani Mkhize (SAA Brand Manager), ("Mr Mkhize") and Ms Kim Thipe (SAA HOD: Marketing), ("Ms Thipe") on 2 February 2017. The following salient points were noted:

6.3.20.8.1. The R22,8 million applies to all business units making use of Cub3D services.

6.3.20.8.2. There is no single individual who manages this budget and each individual business unit raises their own purchase orders for payment of invoices;

6.3.20.8.3. Mr Mkhize bases his business unit's purchase orders on his Departmental budget and, if the payment is within that budget, it gets approved. No reconciliation is done to the contract's individual budget;

6.3.20.8.4. According to Ms Thipe there was no signed contract as at 2 February 2017 as the GM had not signed the contract;

6.3.20.8.5. According to both Ms Thipe and Mr Mkhize, the SAP system is not being utilised to its full capacity; and

6.3.20.8.6. There are no controls in place that would initiate a red flag communication to Mr Mkhize that his contract budget has reached its limit and he further explained that he was only aware that it was sitting at R47,5 million on Monday, 30 January 2017, after our intervention with accounts payable regarding

the overspend against approved budget by the BAC.

6.3.20.8.7. In our interview with the HOD: Legal, Fikile Thabethe, she indicated that amongst the reasons for the delay in signing contracts, is the failure of the GSM to own the contract management process as well as the lack of detailed business processes identifying the roles of different stakeholders, their responsibilities and timeframes within-which each stakeholder must respond. She also mentioned that there is also a challenge in terms of improving the current processes due to some form of resistance to change by some officials who have been at SAA for long periods. The other point she alluded to was that in some instances contracts are negotiated and signed without the involvement of Legal.

6.3.21. The following recommendations are made in this regard:

6.3.21.1. The SAA Board exercises its authority in terms of Section 51 of the Public Finance Management Act by providing the Executives responsible for Global Supply Chain Management, Marketing and Legal with an opportunity to:

6.3.21.1.1. Account for contravening Section 5.3.1 and 11.17 of the SCM Policy as well as Section 57 (a) and (c) of the PFMA for incurring an irregular and unauthorised expenditure of R27,625,245.37.

6.3.21.1.2. Explain why the contract had still not been concluded 24 months after the contract was awarded; failure to provide satisfactory responses should result in corrective action taken against the respective executives.

6.3.22. SKYSUPPLY GMBH / SKYSUPPLY AFRICA (PTY) LTD

6.3.23. Overview

6.3.23.1. The contract for the supply of amenity kits for use on board SAA aircrafts expired on 30 June 2013. SAA therefore embarked on a competitive open tender process which commenced in January 2013 to ensure they have an uninterrupted supply of amenity kits going forward. During the tender process (GSM 009/2013), Skysupply GmbH (a company incorporated in the Federal Republic of Germany) was awarded the contract to supply amenity kits for a period of 3 years commencing on 1 January 2013 to 31 December 2016 at a value of R95 716 680.00 (VAT Inclusive). The award of the tender was approved by the Chief Executive Officer on 19 December 2013, however the contract between SAA and Skysupply GmbH / Skysupply Africa (Pty) Ltd was only signed on 14 March 2016.

6.3.24. The following key findings are made:

6.3.24.1. The contract for the supply of amenity kits was awarded on 19 December 2013 however, the contract was only concluded on 14 March 2016 (approximately 2 years and 3 months after the tender was awarded). In our interview with the HOD: Legal, Fikile Thabethe, she indicated that amongst the reason for the delay is the failure of the GSM to own the contract management process as well as lack of detailed business processes identifying the roles of different stakeholders, their responsibilities and timeframes within-which each stakeholder must respond. She also mentioned that there is also a challenge in-terms of improving the current processes due to some form of resistance to change by some officials who have been at SAA for long periods. The other point she alluded to was that in some instances contracts are negotiated and signed without the involvement of Legal;

6.3.24.2. The award of the tender to Skysupply was approved by the Chief Executive Officer on 19 December 2013, however the contract between SAA and Skysupply GmbH / Skysupply Africa (Pty) Ltd was only signed on 14 March 2016. During this period, various

payments were made to Skysupply to the value of R24 659 958.56 without having a contract in place.

6.3.25. The following recommendations are made:

6.3.25.1. The SAA Board exercises its authority in terms of Section 51 of the Public Finance Management Act by providing the Executives responsible for Global Supply Chain Management, Legal and Operations with an opportunity to:

6.3.25.1.1. Explain why the contract took 27 months to be concluded after the contract was awarded; failure to provide satisfactory responses should result in corrective action taken against the respective Executives;

6.3.25.1.2. Account for contravening Section 25.1.3.5 of the SCM Policy and Section 57 (a) and (c) of the PFMA by incurring the irregular expenditure of R24 659 958.56.

6.3.26. KINTETSU WORLD EXPRESS SOUTH AFRICA (KWE) (PTY) LTD

6.3.27. Overview

6.3.27.1. A business case motivating for an open tender for supply chain management services was approved by the BAC on 30 September 2011. The critical and functional evaluation criteria and weightings for the selection of service providers was submitted to BAC on 10 December 2012 and subsequently approved by the BAC on 14 December 2012. On or around February 2013, an open tender process was initiated to appoint suitably qualified suppliers for the Provision of In-flight Supply Chain Management Services RFP GSM002/13 as advertised. The following entities responded on this tender:

6.3.27.1.1. KWE-Kintetsu World Express South Africa (Pty) Ltd

6.3.27.1.2. Kuehne & Nagel (Sky Logistics)

6.3.27.1.3. E-gate matrix

6.3.27.1.4. Fast Shipping

6.3.27.2. On evaluation of the tender by CFST, it was revealed that only one entity out of the four entities qualified for Phase 2 consideration. As a result, the committee requested permission from BAC to request the bidders (Kuehne & Nagel, Sky Logistics) to clarify the information provided in response to the critical criteria for the tender. The BAC granted such permission on 12 April 2013. Subsequent to clarification sought, the outcome of the Phase 1 evaluation resulted in all other bidders disqualified except KWE that qualified for Phase 2. The threshold for Phase 2 evaluation was set at 75% while KWE achieved 98% after evaluation. Submissions to relevant approving authorities were made and approved in the following manner:

6.3.27.2.1. BAC approval – 26 July 2013

6.3.27.2.2. CEO approval – 05 September 2013

6.3.27.2.3. FIPCO approval – 05 August 2014

6.3.27.2.4. Board approval – 25 August 2014

6.3.27.3. The tender was awarded to KWE at an amount of R53 372 004.36 per annum estimated at R266 860 021.80 over a period of five (5) years starting from 1 September 2014 to 31 August 2019. A letter of award was then issued on 28 August 2014 and accepted by the Managing Director of KWE on the same day.

6.3.28. The following key findings are made:

6.3.28.1. The contract was still unsigned as at 7 February 2017, 29 months after the tender was awarded.

6.3.28.2. Payments to value of **R125 842 711.99** were made without a contract in place.

6.3.28.3. Documents from other bidders could not be provided for a detailed evaluation of the tender process.

6.3.29. The following are the recommendations made:

6.3.29.1. The SAA Board exercises its authority in terms of Section 51 of the Public Finance Management Act by providing the Executives responsible for Global Supply Chain Management, Legal, Finance and Operations with an opportunity to:

6.3.29.1.1. Explain why 29 months later the contract is still not signed.

6.3.29.1.2. Account for contravening Section 25.1.3.5 of the SCM Policy and Section 57 (a) and (c) of the PFMA by incurring the irregular expenditure of R125 842 711.99.

6.3.29.1.3. Explain why bid documents from other bidders could not be availed for the evaluation of the tender process.

6.3.30. AVIS CAR RENTAL (PTY) LTD

6.3.31. Overview

6.3.31.1. Avis was initially awarded a three-year contract covering the year 2013 to 2016. A tender process was initiated in 2012 for the short and long term vehicle lease/rentals and voyager chauffeur drive service to SAA. On 18 July 2012, the GSM made a submission to the BAC for the approval of evaluation criteria and on the 3 August 2012 the BAC resolved to approve the evaluation criteria and weightings for the open tender GSM031/2012 for the short and long term vehicle lease to SAA.

6.3.31.2. The tender was finally awarded on 21 June 2013 with the following conditions/notes:

6.3.31.2.1. There should be separate contracts and SLA's per commodity with each scope of work non-performance should be as per SLA and recorded

6.3.31.2.2. The decision to award to Avis has been from business and not from the BAC.

6.3.31.3. On 28 June 2013, a letter of award was issued by head of the GSM to Avis Ltd for the supply of short and long term vehicle lease/rentals and voyager chauffeur drive service to SAA for a period of three (3) years staring 1 July 2013 to 30 June 2016, however this letter was not signed by AVIS. On 18 August 2015, Avis signed the contract while SAA signed the contract on the 08 March 2016. The contract is estimated at R10 million per annum starting from 01 March 2014 to 28 February 2017.

6.3.32. The following key findings are made

6.3.32.1. The award of this tender was approved by the business unit and not BAC as indicated in the minutes of BAC dated 21 June 2013.

6.3.32.2. The contract negotiations and signing off was finalised on 8 March 2016 that is 24 months after the commencement date of a contract.

6.3.32.3. Payments to the value of R9 453 813.68 were made to Avis starting from 1 March 2014 to 1 March 2016 without a signed contract between SAA and Avis.

6.3.33. The following recommendations are made:

6.3.33.1. The SAA Board exercises its authority in terms of Section 51 (e) of the Public Finance Management Act by providing the Executives responsible for Global Supply Chain Management, Legal, Finance and Operations with an opportunity to:

6.3.33.1.1. Explain why it took 24 months to conclude a contract.

6.3.33.1.2. Account for contravening Section 25.1.3.5 of the SCM Policy and Section 57 (a) and (c) of the PFMA by incurring the irregular a expenditure of R9,453,813.68.

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6.3.34. DIMENSION DATA

6.3.35. Overview

6.3.35.1. This was an extension of an already existing customer service centre (call centre) five-year contract with Dimension Data, resulting in an eight-year contract. The motivation was that SAA would receive savings for three years and/or a discount through negotiations with Dimension Data. A decision was taken in December 2014 between the GSM and the relevant Business Units to renegotiate the agreement with the current service provider and offer a contract extension in return for the discount on the current price. On 10 December 2014, the Global Supply Chain Management requested the Bid Adjudication Committee to support a 3-year extension to the existing Dimension Data contract.

6.3.35.2. On 18 December 2014, the Global Supply Chain Management requested the Acting CEO to support, for the SAA Board to approve, the extension of the contract with Dimension Data for a period of three years. The Acting CEO signed the necessary documents on 7 January 2015. On 16 January 2015, the Global Supply Chain Management requested approval from the SAA Board. The extended contract with Dimension Data was then signed on 11 November 2015 by the Acting CEO, CFO, COO and CPO. The value of the extension with Dimension Data was R249 499 824. 00 (excluding vat), an apparent saving of R62 374 956.00. The calculations of the discount were proposed by Dimension Data and were used in the motivation by the committees for approval by the Board.

6.3.36. The following key findings are made

6.3.36.1. There is no evidence that the deviation from SCM policy was approved by the Board;

6.3.36.2. Payments totalling R49 948 796.00 were made during the period 1 April 2015 to 06 November 2015 and were paid without a contract in place. The contract was only signed on 11 November 2015;

6.3.36.3. Dimension Data's proposal furthermore focused on the price discount and continuous service, but neglected other critical issues that SAA required in terms of the contract extension, namely, initiatives to drive direct sales, improve revenue and transformation; and

6.3.36.4. The value of the new extended contract with Dimension Data was R249 499 824.00, with an apparent saving of R62 374 956.00 that was not tested in the market.

6.3.37. The following recommendations are made:

6.3.37.1. The SAA Board exercises its authority in terms of Section 51 of the Public Finance Management Act by providing the Executives responsible for Global Supply Chain Management, Legal, Finance and Operations with an opportunity to:

6.3.37.2. Explain the reasons why the deviation from the SCM Policy was not presented to the relevant approving authority for approval;

6.3.37.3. Explain why it took 7 months to conclude a contract between SAA and Dimension Data; and

6.3.37.4. Account for contravening Section 25.1.3.5 of the SCM Policy and Section 57 (a) and (c) of the PFMA by incurring the irregular expenditure of R49 948 796.00.

6.3.38. GATE GOURMET INC. (WASHINGTON DC)

6.3.39. Overview

6.3.39.1. The contract for the supply of on-board catering services in Washington DC expired on 31 January 2014. Based on the recommendation of the Bid Adjudication Council (BAC), the catering market in Washington DC only consisted of two service providers to provide on-board catering services. SAA therefore embarked on a confined tender process which commenced in January 2014 to procure on-board catering services for a period of 3 years.

6.3.39.2. Due to the late commencement of the Supply Chain Management process, the BAC approved an extension of the contract by a period

of 4 months to 31 May 2014. The service provider however did not want to accept the extension, and after negotiations, agreed to a 3-month extension. During the tender process (GSM 002/2014), Gate Gourmet Inc. was awarded the contract to supply on-board catering services in Washington DC for a period of 3 years commencing on 1 May 2014 to 30 Apr 2017 at a total value of R99 897 215.35.

6.3.39.3. The award of the tender was approved by the Chief Executive Officer on 9 April 2014, however the contract between SAA and Gate Gourmet Inc. was only signed on 14 May 2015.

6.3.40. The following key findings are made

6.3.40.1. The contract for the supply of on-board catering services in Washington DC expired on 31 January 2014. Global Supply Management (GSM) only commenced with a confined tender process in January 2014, which resulted in them requesting an extension of the previous contract for a period of 4 months;

6.3.40.2. It appears that the Contract Management System (CMS) is not adequately utilised to circumvent the late commencement of tender processes. This results in non-compliance with the SCM Policy;

6.3.40.3. During the confined bid process followed for the supply of on-board catering services in Washington DC, only three individuals were nominated to serve as members of the Cross Functional Sourcing Team (CFST) and approved by the HOD: GSM. The CFST was therefore not well represented by all the relevant business units to ensure efficient and cost effective sourcing of services above the threshold and in line with the Delegation of Authority;

6.3.40.4. Standard procedure at SAA GSM is to obtain confirmation of the confined bidders from the Country/Station Manager. During this process, the Country/Station Manager declares that the supplier(s) is/are the only supplier(s) accredited/licensed/sole supplier or for business reasons and that they are eligible to be invited to participate in the procurement process to secure the supply of the requested services. The process followed by the GSM during this SCM process did not include obtaining confirmation from the

Country/Station Manager. The GSM has therefore not followed standard practise in this regard;

6.3.40.5. The award of the tender to Gate Gourmet was approved by the Chief Executive Officer on 9 April 2014, however the contract between SAA and Gate Gourmet was only signed on 14 May 2015 (Approximately 1-year later); and

6.3.40.6. During this period payments amounting to **R29 699 033.77** were made to Gate Gourmet without a signed contract.

6.3.41. The following recommendations are made:

6.3.41.1. The SAA Board exercises its authority in terms of Section 51 of the Public Finance Management Act by providing the Executives responsible for Global Supply Chain Management, Legal, Finance and Operations with an opportunity to:

6.3.41.1.1. Explain the reasons why the procurement process was initiated as late as in January 2014;

6.3.41.1.2. Explain the reasons why confirmation from the station manager was not sought as required in terms of the standard procedure for confinement;

6.3.41.1.3. Explain the reasons why it took 12 months to conclude a contract between SAA and Gate Gourmet; and

6.3.41.1.4. Account for contravening Section 25.1.3.5 of the SCM Policy and Section 57 (a) and (c) of the PFMA by incurring the irregular expenditure of R29,699,033.77.

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COMMISSION OF INQUIRY INTO STATE CAPTURE

6.3.42. GATE GOURMET HONG KONG LTD

6.3.43. Overview

6.3.43.1. On 23 November 2013, a technical tender specification for a RFP was authorised on behalf of the business unit: Marketing. Three bidders were invited to bid: LSG, Cathay and Gate Gourmet. Cathay Catering indicated that they did not have the capacity and on 10 March 2014 LSG Sky Chefs withdrew from the tender as their primary goal was to win SAA's business in LHR, FRA and MUC where they had more than enough capacity to service SAA. With only HKG, IAD and GRU left on the table there was not sufficient incentive for LSG Sky Chefs to participate in the tender.

6.3.43.2. On 6 December 2013, the BAC requested an extension of the current contracts for the supply of on-boarding catering services to SAA in Hong Kong, Washington DC and Sao Paulo with Gate Gourmet for a period of 4 months. The period approved was 1 February 2014 to 31 May 2014 and the cost was R23 838 204.31, however Gate Gourmet only agreed to extend the contract by 3 months instead of the 4. The CFST adjusted the set timelines to facilitate the completion of the tender process a month before the expiry of the extended contract.

6.3.43.3. The final award amounting to R46 882 340.00 for Hong Kong was made to Gate Gourmet for the period 1 May 2014 to 31 April 2017.

6.3.44. The following key findings are made

6.3.44.1. The contract for the supply of on-board catering services in Hong Kong expired on 31 January 2014. Global Supply Management (GSM) only commenced with a confined tender process in January 2014, which resulted in them requesting an extension of the previous contract for a period of 4 months.

6.3.44.2. It should be noted that Gate Gourmet rejected a 4 months' extension opting for 3 months. This appears to have been a bullying tactic by Gate Gourmet to force SAA to award the tender to them.

6.3.44.3. Failure to start the process on time resulted in SAA paying extension costs to the value to R23,838,204.31 for Hong Kong, Sao Paolo and Washington DC.

6.3.44.4. It therefore appears that the Contract Management System (CMS) is not adequately utilised to circumvent the late commencement of tender processes. This furthermore results in non-compliance with the SCM Policy as bad planning is not acceptable as justification for the use of limited bidding.

6.3.44.5. During the confined bid process followed for the supply of on-board catering services in Hong Kong, only three individuals were nominated to serve as members of the Cross Functional Sourcing Team (CFST) and approved by the HOD: GSM. The CFST was therefore not well represented by all the relevant business units to ensure efficient and cost effective sourcing of services above the threshold and in line with the Delegation of Authority.

6.3.44.6. Standard procedure at SAA GSM is to obtain confirmation of the confined bidders from the Country/Station Manager. During this process, the Country/Station Manager declares that the supplier(s) is/are the only supplier(s) accredited/licensed/sole supplier or for business reasons and that they are eligible to be invited to participate in the procurement process to secure the supply of the requested services.

6.3.44.7. According to the BAC recommendation LSG and Gate Gourmet are the only two service providers who are able to provide this service in Hong Kong. There is no evidence that confirms that LSG and Gate Gourmet are the only services providers in Hong Kong that are able to provide this service.

6.3.44.8. The award of the tender to Gate Gourmet was approved by the Chief Executive Officer on 9 April 2014, however the contract between SAA and Gate Gourmet was only signed on 14 May 2015 (Approximately 1-year later).

6.3.44.9. A review of payments made to date revealed that as at 1 December 2016, R46,021,615.48.00 was paid in relation to this contract.

These total payments are likely to exceed the approved budget given that there is still 4 months left in the contract.

6.3.44.10. There appears to have been a loss of negotiating power as a result of contracts negotiated under pressure due to contracts that have expired.

6.3.44.11. There were extensions of contracts to accommodate the inefficiencies in contract management.

6.3.45. The following recommendations are made:

6.3.45.1. The SAA Board exercises its authority in terms of Section 51 of the Public Finance Management Act by providing the Executives responsible for Global Supply Chain Management, Legal, Finance and Operations with an opportunity to:

6.3.45.1.1. Explain the reasons why the procurement process was initiated as late as in January 2014;

6.3.45.1.2. Explain the reasons why confirmation from the station manager was not sought as required in terms of the standard procedure for confinement;

6.3.45.1.3. Explain the reasons why it took 12 months to conclude a contract between SAA and Gate Gourmet; and

6.3.45.1.4. Account for contravening Section 25.1.3.5 of the SCM Policy and Section 57 (a) and (c) of the PFMA by incurring the irregular expenditure of R46 021 615.48.00.

6.3.46. GATE GOURMET SAO PAULO

6.3.47. Overview

6.3.47.1. Gate Gourmet were the previous suppliers to the contract which expired on 31 January 2014. On 6 December 2013, the BAC requested an extension of the above contract for the supply of on-boarding catering services to SAA in Hong Kong, Washington DC and Sao Paulo with Gate Gourmet for a period of 4 months. The

period approved was 1 February 2014 to 31 May 2014 and the cost was R23 838 204.31, however Gate Gourmet only agreed to extend the contract by 3 months instead of the 4.

6.3.47.2. A tender process was conducted and the contract to provide the services for a period of three years was awarded to Flying Food Servair Brazil. Flying Food Servair Brazil were supposed to start providing on-board catering services to SAA from 1 May 2014 however this did not happen as SAA cited irregularities rendering Flying Food Servair Brazil incapable of providing the service.

6.3.47.3. The background and motivation to award the bid to Gate Gourmet provided by the GSM to the BAC was as follows:

6.3.47.3.1. Flying Food Servair Brazil initially presented a consortium comprising of three caterers to the CFST that visited Sao Paulo. The CFST evaluated them as a consortium and the submission to BAC was recommended to the CEO for approval on 28 March 2014 and the CEO approved the award to the consortium on the 31 March 2014;

6.3.47.3.2. Subsequent to the award, Flying Food Servair Brazil requested SAA to change the name of the consortium to Servair Brazil and further stated their work will be subcontracted to ComRio, a member of the consortium;

6.3.47.3.3. Given that the CFST evaluated the combined capabilities of the three caterers that make up the consortium in order to come up with the recommendation to the approval authority, the changes requested by Servair Brazil rendered the entire tender process null and void;

6.3.47.3.4. Legal advice was sought and due to the irregularities that were revealed by the documentation that was provided by Flying Food Servair Brazil under the pretext of the consortium, a decision to cancel the contract was made and a

letter to that effect was sent to Flying Food Servair Brazil;

6.3.47.3.5. This prompted SAA to engage Gate Gourmet to continue providing catering services to SAA whilst the requisite approval to contract them on a long-term basis was sought. Gate Gourmet was the only option available after LSG Sky Chefs withdrew their proposal citing capacity constraints at their Sao Paulo catering unit as the reason for the withdrawal;

6.3.47.3.6. According to the recommendation: Since the contract with Flying Food Servair Brazil was cancelled there was a need to urgently engage Gate Gourmet to continue offering the on-board catering services with the undertaking that they will be contracted to provide the service on a long-term basis. The GSM acknowledged in the submission to the CEO that Gate Gourmet was aware of how dire the situation was and used the resultant leverage to dictate terms to SAA; and

6.3.47.3.7. One of these terms was that Gate Gourmet will stop offering catering services in Sao Paulo if a legally binding document was not signed by both parties on or before 12 May 2014. It was against this background that the CEO was requested to approve the recommendation to confine and award the tender for the Supply of On-board Catering Services to SAA in Sao Paulo to Gate Gourmet for a period of 3 years.

6.3.47.4. On 7 May 2014 Gate Gourmet issued a letter to SAA stating that they will continue to provide catering services to SAA until 12 May 2014. On 9 May 2014 the GSM requested BAC support to confine and award the contract for the supply of on-board catering services in Sao Paulo to Gate Gourmet. On 9 May 2014, the BAC recommended to the CEO to confine and award the contract for the

supply of on-board catering services in Sao Paulo to Gate Gourmet for a period of 3 years at an estimated total cost of R75 829 701.81, subject to exchange rate fluctuations.

6.3.47.5. On 12 May 2014 the GSM requested approval from the CEO to confine and award the tender for the supply of on-board catering services to SAA in Sao Paulo to Gate Gourmet for a period of three years at an estimated cost of R75 829 701.81, subject to exchange rate fluctuations, which the CEO approved on 14 May 2014.

6.3.47.6. On 13 May 2014 SAA issued a LOA to Gate Gourmet for the supply of On-board Catering services to SAA in Sao Paulo, for a period of three (3) years from 1 May 2014 to 30 April 2017. On 14 May 2014, the CEO approved the recommendation to confine and award the tender to Gate Gourmet.

6.3.47.7. The contract between SAA and Gate Gourmet was signed off by the CFO on 14 May 2015.

6.3.48. The following key findings are made

6.3.48.1. The contract for the supply of on-board catering services in Sao Paulo expired on 31 January 2014. Global Supply Management (GSM) only commenced with a confined tender process in January 2014, which resulted in them requesting an extension of the previous contract for a period of 4 months;

6.3.48.2. There were extensions of contracts to accommodate the inefficiencies in contract management. Failure to start the process on time resulted in SAA paying extension costs to the value of R23 838 204.31 for Hong Kong, Sao Paolo and Washington DC;

6.3.48.3. It should be noted that Gate Gourmet rejected a 4 months' extension opting for 3 months. This appears to have been a bullying tactic by Gate Gourmet to force SAA to award the tender to them;

6.3.48.4. It therefore appears that the Contract Management System (CMS) is not adequately utilised to circumvent the late commencement of tender processes. This furthermore results in non-compliance with the SCM Policy as bad planning is not acceptable as justification for the use of confined bidding;

6.3.48.5. The award of the tender to Gate Gourmet was approved by the Chief Executive Officer on 14 May 2014, however the contract between SAA and Gate Gourmet was only signed on 14 May 2015 (Approximately 1-year later). Up until the time the contract was signed SAA incurred irregular expenditure which could not be determined as financial information was still outstanding at the time of concluding the report; and

6.3.48.6. There appears to have been a loss of negotiating power as a result of contracts negotiated under pressure due to contracts that have expired. This loss of negotiating power resulted in the loss of R12 million as Flying Foods Brazil was awarded the same contract at R63 794 435 while Gate Gourmet charged SAA R75 829 701.81.

6.3.49. The following recommendations are made:

6.3.49.1. The SAA Board exercises its authority in terms of Section 51 of the Public Finance Management Act by providing the Executives responsible for Global Supply Chain Management, Legal, Finance and Operations with an opportunity to:

6.3.49.1.1. Explain the reasons why the procurement process was initiated as late as in January 2014;

6.3.49.1.2. Explain the reasons why confirmation from the station manager was not sought as required in terms of the standard procedure for confinement;

6.3.49.1.3. Explain the reasons why it took 12 months to conclude a contract between SAA and Gate Gourmet; and

6.3.49.1.4. Account for contravening Section 25.1.3.5 of the SCM Policy and Section 57 (a) and (c) of the PFMA by incurring the irregular expenditure.

6.3.50. PERTH INFLIGHT CATERING

6.3.51. Overview

6.3.51.1. This was a contract for the supply of on-board catering services to SAA in Perth, for a period of 3 years, from 1 November 2015 to 31 October 2018 with an estimated total cost of R85 825 182.59. On 8 April 2015, the station manager provided the relevant confirmation that only Alpha Catering Services, Qantas Catering Limited and Perth in-Flight Catering were accredited to provide the above services.

6.3.51.2. On 24 April 2015, the BAC approved:

6.3.51.2.1. The evaluation criteria and weightings for the provision of on-board catering services to SAA in Perth prior to the RFP being forwarded to the service providers; and

6.3.51.2.2. The confinement of the tender for the provision of on-board catering services in Perth.

6.3.51.3. The following service providers submitted their bids for the provision of on-board catering services in Perth:

6.3.51.3.1. Alpha Catering Services

6.3.51.3.2. Qantas Flight Services

6.3.51.3.3. Perth in-Flight Catering

6.3.51.4. On 7 August 2015, the BAC approved the request of the CFST to request additional information from the caterers in order to proceed with the evaluation of their proposals. On the 19th August 2015, SAA issued all tenderers with email requests to provide further information in order to continue with evaluating the proposals as critical criteria evaluation questions were not answered, and only Perth Inflight Catering provided the required information.

6.3.51.5. The evaluation report compiled by the CFST on the 05th of October 2015 reveals that both Alpha Catering and Qantas Flight Services did not qualify for Phase 2 due to lack of documentation. Perth In-

Flight was then evaluated against Qantas costs as they were still contracted to render catering services for SAA. On 5 October 2015, the BAC resolved by Round Robin approval to support and recommend to the Acting CEO the approval to award the contract for on-board Catering in Perth to Perth Inflight Catering for a period of three years, commencing from 1 November 2015, ending 31 October 2018, at an estimated cost of R85 825 182.59. On 6th October 2015, the Acting CEO supported the BAC decision to approve the award.

6.3.52. The following key findings are made

6.3.52.1. The Acting CEO's approval on 6 October 2015 was taken as the final authority. This is not in compliance with the Delegation of Authority which states that any awards above R50 million would need FIPCO Board approval.

6.3.52.2. There is no signed agreement in place as at 01 December 2016, regulating the relationship between SAA and Perth Inflight Catering which exposes SAA to the risk of failing to hold Perth Inflight Catering accountable for any deviation from the scope.

6.3.52.3. In the absence of a signed contract, SAA is not in a position to monitor and evaluate the performance of the service provider.

6.3.52.4. Non-compliance with SCM Policy with regard to payments of services without a signed contract.

6.3.52.5. Non-adherence to the SAA's Delegation of Authority as the inappropriate level of authority approved the award. This has the result of a significant contract being approved by a committee that does not have delegated authority to do so.

6.3.53. The following recommendations are made:

6.3.53.1. The SAA Board exercises its authority in terms of Section 51 of the Public Finance Management Act by providing the Executives responsible for Global Supply Chain Management, Legal, Finance and Operations with an opportunity to:

6.3.53.1.1. Explain the reasons why 12 months later the contract between SAA and Perth Inflight Catering was still outstanding.

6.3.53.1.2. Account for contravening Section 25.1.3.5 of the SCM Policy and Section 57 (a) and (c) of the PFMA by incurring the irregular expenditure.

6.3.53.1.3. Explain why the Delegation of Authority was not taken into account when the contract was approved.

6.3.54. SWISSPORT TANZANIA PLC

6.3.55. Overview

6.3.55.1. Swissport Tanzania's contract to provide Ground Handling Services at the Julius Nyerere International Airport in Dar Es Salaam (Tanzania) came to an end on 31 March 2016.

6.3.55.2. At the time, Swissport was the only accredited supplier to provide this service. For this reason, SAA had to obtain approval to use a confinement process to award the service again to Swissport for another 3-year period. During this process, the GSM negotiated with Swissport to maintain the same rates for a further 2-years with a CPI increase only in the third year. The CPI increase was also limited to 4%.

6.3.55.3. The award of the contract took longer than anticipated and the previous contract had to be extended for a period of 2-months (1 Apr 2016 to 31 May 2016). The BAC approved the extension on 8 April 2016.

6.3.55.4. As the value of the contract was over R50m, the Finance, Investment and Procurement Committee (FIPCO) finally approved the award of the contract on 27 May 2016 commencing on 1 Jun 2016 to 31 May 2019. The value of the contract awarded was estimated at R47,573,635.20 for Commercial and R3,262,358.90 for Cargo handling.

6.3.55.5. Although the contract was awarded to Swissport in May 2016, a contract has not yet been concluded between the parties.

6.3.56. The following key findings are made

6.3.56.1. The award of the contract to Swissport Tanzania was approved by the FIPCO on 27 May 2016, however the contract between SAA and Swissport Tanzania has not yet been concluded.

6.3.56.2. Since 1 June 2016, various payments were made to Swissport Tanzania to the value of R11,773,279.16 without having a contract in place, which ultimately results in irregular expenditure.

6.3.57. The following recommendations are made:

6.3.57.1. The SAA Board exercises its authority in terms of Section 51 of the Public Finance Management Act by providing the Executives responsible for Global Supply Chain Management, Legal, Finance and Operations with an opportunity to:

6.3.57.1.1. Explain the reasons why the contract was still not signed as at 31 December 2016 between SAA and Swissport Tanzania.

6.3.57.1.2. Account for contravening Section 25.1.3.5 of the SCM Policy and Section 57 (a) and (c) of the PFMA by incurring the irregular expenditure of R11,773,279.16

6.3.58. SWISSPORT USA INC. (WASHINGTON)

6.3.59. Overview

6.3.59.1. During June 2015, the African Airlines Association (AFRAA) invited SAA to participate in a joint tender process to appoint service providers at regional and international stations to provide Ground Handling Services.

6.3.59.2. SAA decided to only participate in the tender process for two stations, Washington and Kinshasa International Airports. The BAC supported and recommended the participation of SAA in this tender

process on 7 March 2016. The Acting CEO (Musa Zwane) approved SAA's participation in this tender process on 5 Apr 2016.

6.3.59.3. The bid process for Washington International Airport was confined to the following two service providers as they were the only accredited service providers to provide Passenger and Ramp Handling Services in Washington:

6.3.59.3.1. Swissport USA; and

6.3.59.3.2. World Flight Services

6.3.59.4. The bid process for Kinshasa International Airport was confined to the following three handlers:

6.3.59.4.1. Congo Handling Services;

6.3.59.4.2. Global Aviation Services International; and

6.3.59.4.3. African Transport Systems.

6.3.59.5. AFRAA concluded the tender review during 26 to 27 October 2015 (with representation from SAA) and found Swissport USA to be the most favourable and acceptable service provider for Washington International Airport.

6.3.59.6. Congo Handling Services was found to be the most favourable bidder for Kinshasa International Airport, however the process could not be finalised until an audit of the location had been completed.

6.3.59.7. The GSM therefore requested the Acting CEO to approve the passenger departures and ramp handling services to Swissport USA at Washington International Airport for a period of three-years from 1 June 2016 to 31 May 2019 at an estimated value of R31,323,392.10. This was approved by the Acting CEO (Musa Zwane) on 30 June 2016.

6.3.59.8. The contract between SAA and Swissport USA still needs to be finalised.

6.3.60. The following key findings are made

6.3.60.1. During the review of various contracts between SAA and service providers, it was noted that dates on documentation and wording used in documentation does not always tie up with the flow of the SCM processes.

6.3.60.2. On several occasions, it appears as if information and dates on BAC Submission Checklists, BAC Submissions, BAC Decision Records and SAA Board Resolutions are incorrect due to information being copied and pasted from previous records.

6.3.60.3. In the SCM process for awarding Ground Handling Services in Washington to Swissport USA, the following was found:

6.3.60.4. Incorrect Dates:

6.3.60.4.1. The submission from the GSM to the Acting CEO requesting the approval of SAA's participation in the AFRAA joint tender dated 16 March 2015 was signed by the person who compiled the document (Sourcing Specialist: Lee-Anne Swart) on 18 March 2016, a year later.

6.3.60.5. This means that the document was disguised to look as if the approval was requested in 2015. According to Lee-Anne Swart, she neglected to obtain approval from the CEO before SAA participated in the AFRAA joint tender.

6.3.60.6. Incorrect Budget Amounts:

6.3.60.6.1. The submission made from the GSM to the BAC dated 19 February 2016 indicated that the estimated cost for Washington would be R5,169,710.00 per annum. This document was compiled by the Sourcing Specialist (Lee-Anne Swart).

6.3.60.6.2. The BAC Submission Checklist signed by the Sourcing Specialist (Lee-Anne Swart) on 24 February 2016 also indicated the value of the

budget for Washington to be R5,169,710.00 per annum.

6.3.60.6.3. An e-mail from the Regional Finance Manager (Francisco Arguello) to Sourcing Specialist (Lee-Anne Swart) dated 24 May 2016, confirmed the budget for Passenger Handling at Washington of R68,021,271.57 (USD 4,177,890.00).

6.3.60.6.4. The BAC Submission Checklist signed by the Sourcing Specialist (Lee-Anne Swart) on 1 June 2016 indicated the value of the budget for Washington to be R61,414,983.00 per annum.

6.3.60.6.5. The Final Supplier Selection Recommendation for Ground Handling services at Washington International Airport dated 3 June 2016, indicated an approved budget of R61,414,983.00. This document was compiled by the Sourcing Specialist (Lee-Anne Swart).

6.3.60.6.6. The CEO approved the final recommendation of awarding Ground Handling services at Washington International Airport to Swissport USA on 30 June 2016 at an estimated value of R31,323,392.10 over a three-year period.

6.3.60.6.7. This means that when the BAC resolved to support and recommend to the Acting CEO the request to participate in the AFRAA joint sourcing of Ground Handling services at both regional and international stations on 7 March 2016, they were unaware that the budget for Washington was R61,414,983.00 and not R5,169,710.00 per annum.

6.3.60.6.8. The Sourcing Specialist (Lee-Anne Swart) could not explain where the budget of R5,169,710.00 per annum was derived from.

6.3.60.6.9. On 14 July 2015, the African Airlines Association (AFRAA) sent a letter to the SAA Chief Procurement Officer (Dr Masimba Dahwa) informing him that the AFRAA Ground Handling Committee commenced a tender process for the procurement of ground handling services at selected airports.

6.3.60.6.10. AFRAA therefore requested that Ms Lee-Anne Swart (Sourcing Specialist) travel to Nairobi to participate in the critical phase of the 2015 tender process.

6.3.60.6.11. Approval for SAA to participate in the AFRAA joint tender process was only obtained from the Acting CEO of SAA in April 2016. By then the AFRAA tender process was already completed. This means that the Chief Procurement Officer of SAA gave permission for the Sourcing Specialist to participate in this tender process without the approval of the Acting CEO.

6.3.60.6.12. No evidence could be found that the GSM appointed a CFST with representation from specialists in various functional areas to overlook the tender process. Only the Sourcing Specialist appears to have participated in the final phase of the tender process. This compromises the overall SCM process of SAA and opens the procurement system to manipulation.

6.3.60.6.13. No evidence could be found that confirmation for the confinement of bidders was obtained from the Country or Station manager during the AFRAA joint tender process. The Secretariat of AFRAA also received various letters from BidAir during the tender process expressing concerns that the tender process was not in line with the Competition Act of South Africa. This indicates that all the standard

SCM processes were not followed as would be expected from SAA.

6.3.60.6.14. No evidence could be found that the Sourcing Specialist signed a Declaration of Interest.

6.3.60.6.15. The award of Ground Handling services at Washington International Airport to Swissport USA was approved by the Acting CEO on 30 June 2016 for commencement on 1 June 2016, however the contract between SAA and Swissport has not yet been concluded to date (approximately eight-months later).

6.3.60.6.16. During the period 1 June 2016 (commencement date) to current, various payments were made to Swissport USA to the value of R10,782,954.84 without having a contract in place, which ultimately results in irregular expenditure.

6.3.61. The following recommendations are made:

6.3.61.1. The SAA Board exercises its authority in terms of Section 51 of the Public Finance Management Act by providing Executives responsible for Global Supply Chain Management, Legal, Finance and Operations with an opportunity to:

6.3.61.1.1. Explain the reasons why the contract was still not signed as at 31 December 2016 between SAA and Swissport USA.

6.3.61.1.2. Account for contravening Section 25.1.3.5 of the SCM Policy and Section 57 (a) and (c) of the PFMA by incurring the irregular expenditure of R10,782,954.84

6.3.61.1.3. Explain irregularities in the submission documents compiled by the Sourcing Specialist, Lee-Ann Swart.

6.3.61.1.4. Failure to provide satisfactory responses should result in appropriate steps taken against responsible officials in line with Section 51 (e).

6.3.62. JARDINE AIRPORT SERVICES (HONG KONG)

6.3.63. Overview

6.3.63.1. SAA utilised Honk Kong Airport Services Limited (HAS) in the past to provide Passenger and Ramp services at the Hong Kong International Airport (HKG). The contract between SAA and HAS commenced on 18 January 2011 and expired on 17 January 2014.

6.3.63.2. During October 2013, Global Supply Management (GSM) embarked on a tender process in order to ensure that SAA was still obtaining the best business solution at Hong Kong International Airport.

6.3.63.2.1. The tender process took longer than anticipated and the GSM had to request an extension of the contract with HAS for a period of three-months (18 Jan 2014 to 31 Mar 2014). This extension was inadequate and the GSM had to request another extension of the contract for a period of one-month and five-days (1 Apr 2014 to 5 May 2014).

6.3.63.3. On 7 March 2014, the CFST recommended to the BAC that the tender should be awarded to Jardine Airport Services Limited (Jardine), however the BAC decided that SATS Hong Kong Limited (SATS) would be a better option for SAA and awarded the contract to SATS for a period of three-years from 6 May 2014 to 5 May 2017 at an estimated value of R25,554,619.56.

6.3.63.4. SATS notified SAA on 18 March 2014 that they would not be able to commence on 6 May 2014 as required by SAA. HAS (the current service provider) was unable to extend their services and SAA therefore had to retract the award from SATS and award the contract to Jardine for a period of three-years from 6 May 2014 to 5 May 2017 at an estimated value of R25,625,666.31.

6.3.63.5. The tender was awarded by the BAC to Jardine on 20 March 2014 and the contract between SAA and Jardine was concluded on 3 October 2014.

6.3.64. The following key findings are made

6.3.64.1. The contract for the supply of Passenger and Ramp services at the Hong Kong International Airport in Hong Kong expired on 17 January 2014. The GSM only commenced with a confined tender process in October 2013, which resulted in them requesting the following contract extensions:

6.3.64.1.1. First Extension: 18 Jan 2014 to 31 Mar 2014 (three-month); and

6.3.64.1.2. Second Extension: 1 Apr 2014 to 5 May 2014 (one-month and five-days).

6.3.64.2. The Contract Management System (CMS) is therefore not adequately utilised to circumvent the late commencement of tender processes.

6.3.64.3. The award of Passenger and Ramp services at Hong Kong International Airport to Jardine was approved by the BAC on 20 March 2014 for commencement on 6 May 2014, however the contract between SAA and Jardine was only signed by the CFO on 27 Augustus 2014 and by Jardine on 3 October 2014 (approximately five-months later).

6.3.64.4. During the period 6 May 2014 (commencement date) to 3 October 2014 (date contract was signed), various payments were made to Jardine without having a contract in place, which ultimately results in irregular expenditure.

6.3.64.5. According to the BAC Decision Record dated 8 November 2013, the CFST recommended that the BAC approve the award of Passenger and Ramp Handling to Jardine Airport Services Limited at Hong Kong for a three-year period.

6.3.64.6. The BAC Decision Record indicated that the BAC decided not to award the tender to Jardine and awarded the tender to SATS. The

only reason stated on the decision record was as follows: "Award to SATS as they are the top scored bidder and it's in line with the PPPFA".

6.3.64.7. It appears as if the date of the BAC Decision Record (8 November 2013) is incorrect as the CFST only submitted their Final Supplier Selection Recommendation to the BAC on 7 March 2014, approximately four months later.

6.3.64.8. The minutes of the BAC meeting held on 8 November 2013 was requested from the GSM, however this award was not discussed during the meeting of the 8th November 2013. The minutes of the BAC meeting where this award was made was requested from the GSM, however they were unable to find minutes of the meeting where the BAC awarded this tender.

6.3.65. The following recommendations are made:

6.3.65.1. The SAA Board exercises its authority in terms of Section 51 of the Public Finance Management Act by providing Executives responsible for Global Supply Chain Management, Legal, Finance and Operations with an opportunity to:

6.3.65.1.1. Provide an explanation as to why it took 5 months to conclude the contract between SAA and Jardine Airport Services (Hong Kong).

6.3.65.1.2. Account for contravening Section 25.1.3.5 of the SCM Policy and Section 57 (a) and (c) of the PFMA by incurring the irregular expenditure.

6.3.65.1.3. Explain the inconsistencies with regard to the BAC minutes on the approval of the award on 08 November 2013.

6.3.65.2. Failure to provide satisfactory responses should result in appropriate steps taken against responsible officials in line with Section 51 (e).

6.3.66. LUFTHANSA - MUNICH

6.3.67. Overview

6.3.67.1. Passenger Handling services at Munich International Airport were provided to SAA by Lufthansa in the past. The contract between SAA and Lufthansa expired on 31 December 2014.

6.3.67.2. On 28 November 2014, the GSM made a submission to the BAC requesting the confinement and approval to award Passenger Handling services to Lufthansa at Munich International Airport for a period of three-years as Lufthansa was the only accredited supplier.

6.3.67.3. The BAC approved the confinement and award to Lufthansa on 12 December 2014 for the period 1 January 2015 to 31 December 2017 at an estimated cost of R23,465,634.18.

6.3.67.4. Subsequently a process commenced to conclude a contract with Lufthansa, however, to date, it has not yet been concluded.

6.3.68. The following key findings are made

6.3.68.1. The award of Passenger Handling services at Munich International Airport to Lufthansa was approved by the BAC on 12 December 2014 for commencement on 1 January 2015, however the contract between SAA and Lufthansa has not yet been concluded to date (approximately two-years and one-month later later).

6.3.68.2. During the period 1 January 2015 (commencement date) to current, payments could have been made to Lufthansa without having a contract in place, which ultimately results in irregular expenditure. The Finance Department was however unable to provide us with payment information for this period.

6.3.69. The following recommendations are made:

6.3.69.1. The SAA Board exercises its authority in terms of Section 51 of the Public Finance Management Act by providing Executives responsible for Global Supply Chain Management, Legal, Finance and Operations with an opportunity to:

6.3.69.1.1. Provide an explanation as to why the contract is still not signed 25 months since the award was made.

6.3.69.1.2. Account for contravening Section 25.1.3.5 of the SCM Policy and Section 57 (a) and (c) of the PFMA by incurring the irregular expenditure.

6.3.69.1.3. Failure to provide satisfactory responses should result in appropriate steps taken against responsible officials in line with Section 51 (e).

6.3.70. SKYWAY AVIATION HANDLING COMPANY LIMITED - LAGOS

6.3.71. Overview

6.3.71.1. Ground Handling services at Lagos International Airport were provided by Skyway Aviation Handling Company Limited (SAHCOL) to SAA in the past. Their contract expired on 31 January 2016.

6.3.71.2. In 2014, SAA participated in the AFRAA joint tender process and Lagos was one of the locations involved in the tender. During this tender process SAHCOL was selected to provide Ground Handling services at Lagos. In 2015, AFRAA engaged the only two accredited suppliers, SAHCOL and Nigerian Aviation Handling Company (NAHCO) to participate in the AFRAA tender process, however neither responded.

6.3.71.3. SAA conducted an RFI at Abuja International Airport for the same services, SAHCOL offered SAA the same rate for Abuja as for Lagos of USD1,155 per turnaround versus NAHCO who proposed USD1,560 per turnaround.

6.3.71.4. Based on the information obtained from the RFI at Abuja, the GSM made a submission to the BAC on 15 January 2016 to request the BAC to approve the confinement and award of Ground Handling services at Lagos to SAHCOL. The BAC approved the confinement and award to SAHCOL for a period of three-years (1 February 2016 to 31 January 2019) at an estimated cost of R17,922,504.60.

6.3.71.5. Although the contract commenced on 1 February 2016, the contract between SAA and SAHCOL have not been concluded to date.

6.3.72. The following key findings are made

6.3.72.1. The award of Ground Handling services at Lagos International Airport to SAHCOL was approved by the BAC on 22 January 2016 for commencement on 1 February 2016, however the contract between SAA and SAHCOL has not yet been concluded to date (approximately one-year later).

6.3.72.2. During the period 1 February 2016 (commencement date) to current, various payments were made to SAHCOL to the value of R8,321,967.75 without having a contract in place, which ultimately results in irregular expenditure.

6.3.73. The following recommendations are made:

6.3.73.1. The SAA Board exercises its authority in terms of Section 51 of the Public Finance Management Act by providing Executives responsible for Global Supply Chain Management, Legal, Finance and Operations with an opportunity to:

6.3.73.1.1. Provide an explanation as to why the contract is still not signed 12 months since the award was made.

6.3.73.1.2. Account for contravening Section 25.1.3.5 of the SCM Policy and Section 57 (a) and (c) of the PFMA by incurring the irregular expenditure of R8,321,967.75.

6.3.73.2. Failure to provide satisfactory responses should result in appropriate steps taken against responsible officials in line with Section 51 (e).

6.3.74. ENTEBBE HANDLING SERVICES (ENTEBBE-UGANDA)

6.3.75. Overview

6.3.75.1. On 18 September 2015, the BAC approved the confinement and award of Ground Handling services at Entebbe International Airport to Entebbe Handling Services (ENHAS) for a period of three-years at an estimated cost of R16,380,000.00.

6.3.75.2. On 15 August 2016, a contract was concluded between SAA and ENHAS to provide Ground Handling services at Entebbe commencing on 1 September 2015 to 31 August 2018. The contract was signed on behalf of SAA by the HOD Regional Operations (Tebogo Tsimane), GM Operations (Zuks Ramasia) and Acting

6.3.76. The following key findings are made

6.3.76.1. Based on the review of the evidence file maintained by the GSM, it was noted that the following documents were not kept on file:

6.3.76.1.1. BAC Submission Checklist for the confinement and award of Ground Handling services at Entebbe.

6.3.76.1.2. Submission from the GSM to BAC motivating the recommendation for the confinement and award of Ground Handling services at Entebbe.

6.3.76.1.3. Correspondence between the parties to obtain an understanding of the process followed.

6.3.76.1.4. Documentation providing background to previous contracts, extensions or the need for a new contract.

6.3.76.2. Adequate and appropriate records throughout the procurement process was therefore not maintained to provide sufficient information to enable an audit or independent review.

6.3.76.3. Standard procedure at SAA GSM is to obtain confirmation of the confined bidders from the Country/Station Manager.

6.3.76.4. During this process, the Country/Station Manager declares that the supplier(s) is/are the only supplier(s) accredited/licensed/sole supplier or for business reasons and that they are eligible to be invited to participate in the procurement process to secure the supply of the requested services.

6.3.76.5. The process followed by the GSM during this SCM process did not include obtaining confirmation from the Country/Station Manager.

The GSM has therefore not followed standard practise in this regard.

6.3.76.6. On 18 September 2015, the BAC approved the confinement and award of Ground Handling services at Entebbe International Airport to ENHAS, however the contract already commenced on the 1st of September 2015.

6.3.76.7. This means that the GSM did not follow the required SCM processes.

6.3.76.8. The award of Ground Handling services at Entebbe International Airport to ENHAS was approved by the BAC on 18 September 2015 for commencement on 1 September 2015, however the contract between SAA and Entebbe was only concluded on 15 August 2016 (approximately eleven-months later).

6.3.76.9. During the period 1 September 2015 (commencement date) to 15 August 2016, various payments were made to Entebbe to the value of R7,655,753.22 without having a contract in place, which ultimately results in irregular expenditure.

6.3.77. The following recommendations are made:

6.3.77.1. The SAA Board exercises its authority in terms of Section 51 of the Public Finance Management Act by providing Executives responsible for Global Supply Chain Management, Legal, Finance and Operations with an opportunity to:

6.3.77.1.1. Provide an explanation as to why it took 11 months to conclude the contract between SAA and Entebbe Handling Services (Uganda).

6.3.77.1.2. Account for contravening Section 25.1.3.5 of the SCM Policy and Section 57 (a) and (c) of the PFMA by incurring the irregular expenditure of R7,655,753.22.

6.3.77.2. Failure to provide satisfactory responses should result in appropriate steps taken against responsible officials in line with Section 51 (e).

6.3.78. TAAG – Luanda (Angola)

6.3.79. Overview

6.3.79.1. Lounge Services at the Luanda International Airport in Angola were provided to SAA in the past by TAAG (Angolan Airways). The contract between SAA and TAAG did not form part of the the GSM contract register and was controlled at station level. To ensure consistency and compliance with PFMA declarations, SAA decided to include this contract as part of the GSM contract register.

6.3.79.2. TAAG is the sole provider of Lounge Services at Luanda and the GSM therefore made a submission to the BAC to approve the confinement and award of Lounge Services to TAAG at Luanda International Airport for the period 1 November 2015 to 31 October 2018.

6.3.79.3. On 23 Oct 2015, the BAC awarded the three-year contract to TAAG at an estimated cost of R15,704,064.00

6.3.79.4. A new contract between SAA and TAAG was signed on 17 March 2016 by the HOD Regional Stations (Tebogo Tsimane), GM Operations (Zuks Ramasia) and Acting CPO (Lester Peter) for commencement on 1 November 2015. The contract has not been concluded as TAAG has not yet signed the contract.

6.3.80. The following key findings are made:

6.3.80.1. The HOD Regional Stations (Tebogo Tsimane), GM Operations (Zuks Ramasia) and Acting CPO (Lester Peter) signed the contract on 17 March 2016.

6.3.80.2. The award of Lounge Services at Luanda International Airport to TAAG was approved by the BAC on 23 Oct 2015 for commencement on 1 November 2015, however the contract between SAA and TAAG has not yet been concluded to date (approximately one-year and three-months later).

6.3.80.3. During the period 1 November 2015 (commencement date) to current, payments could have been made to TAAG without having a contract in place, which ultimately results in irregular expenditure.

The Finance Department was however unable to provide us with payment information for this period.

6.3.81. The following recommendations are made:

6.3.81.1. The SAA Board exercises its authority in terms of Section 51 of the Public Finance Management Act by providing Executives responsible for Global Supply Chain Management, Legal, Finance and Operations with an opportunity to:

6.3.81.1.1. Provide an explanation as to why the contract is still not concluded 15 months since the award was made.

6.3.81.1.2. Account for contravening Section 25.1.3.5 of the SCM Policy and Section 57 (a) and (c) of the PFMA by incurring the irregular expenditure.

6.3.81.2. Failure to provide satisfactory responses should result in appropriate steps taken against responsible officials in line with Section 51 (e).

6.3.82. ARCUS FACILITIES MANAGEMENT - MAINTENANCE SERVICES (ELECTRICAL)

6.3.83. Overview

6.3.83.1. In the past, SAA utilised the services of two service providers (SFU Engineering and UTS Services) to provide maintenance of the following services:

6.3.83.1.1. All Electrical, Mechanical and Ground Support Equipment;

6.3.83.1.2. All Heat Ventilation and Air-conditioning Equipment; and

6.3.83.1.3. Buildings, Civil and General Maintenance Services

6.3.83.2. The initial contracts with these service providers commenced on 1 December 2007 and expired on 30 November 2010.

6.3.83.3. Subsequently, the following extensions were made due to different reasons which were informed by the Business Units:

Letter of Extension	**Date**	**Period**
First	01/12/2010 – 28/02/2011	3 Months
Second	01/03/2011 – 31/07/2011	5 Months
Third	01/08/2011 – 31/01/2012	6 Months
Fourth	01/02/2012 – 31/07/2012	6 Months
Fifth	01/08/2012 – 31/01/2013	6 Months
Sixth	01/02/2013 – 31/07/2013	6 Months
Seventh	01/08/2013 – 31/01/2014	6 Months
Eighth	01/02/2014 – 31/07/2014	6 Months
Ninth	01/08/2014 – 30/09/2014	2 Months
Tenth	01/10/2014 – 30/10/2014	1 Month

6.3.83.4. The contracts with these service providers expired on 31 July 2014 and Facilities instructed the GSM to initiate an open-tender process for all the Facilities maintenance agreements.

6.3.83.5. The open-tender was advertised and bid submissions closed on 8 July 2014.

6.3.83.6. Bids from the following five service providers were received:

6.3.83.6.1. Arcus FM Solutions;

6.3.83.6.2. Solethu Energy;

6.3.83.6.3. SFU Engineering;

6.3.83.6.4. Lumacon Air Conditioning; and

6.3.83.6.5. Inkweli Engineering

6.3.83.7. The bids received were evaluated and the final recommendation was made to the BAC On 12 September 2014 to appoint Arcus Facilities Management Solutions (Pty) Ltd for the rendering of Electrical, Mechanical and Ground Support Equipment Maintenance Services to the SAA Group (excluding Mango). The term of the services to be rendered was for a period of three-years commencing on 1 November 2014 at an estimated cost of R97,326,872.82.

6.3.83.8. In addition, the BAC was requested to approve another extension (one-month) of the existing contract to allow successful mobilisation of the new service provider:

6.3.83.8.1. 10th Extension: 1/10/2014 – 31/10/2014 (one-month)

6.3.83.8.2. The BAC approved the award and the extension on 19 September 2014. The approval of the CEO was also obtained who approved it on 26 September 2014.

6.3.83.9. The contract between SAA and Arcus Facilities Management Solutions Pty Ltd was concluded on 21 April 2016 and signed on behalf of SAA by the Acting CPO (LL Peter), Interim CFO (Phumeza Nhantsi) and Acting CEO (Musa Zwane).

6.3.84. Detailed Findings

6.3.84.1. The initial contracts with SFU Engineering and UTS Services expired on 30 November 2010. Subsequently, ten extensions over a period of three-years and eleven-months were made before a new service provider was appointed.

6.3.84.2. The continued extension of contracts limits fair competition amongst service providers and does not ensure that SAA obtains the best solution for their service needs.

6.3.84.3. Considering the commencement date of the new contract being 1 November 2014 and the service provider only signing the

agreement on 14 December 2015 and the SAA representatives on 21 April 2016, this action has resulted in irregular expenditure of R22,945,930.00 being incurred for the eighteen months in question.

6.3.84.4. During the past twenty-four-month period (1 November 2014 to 30 October 2016), payments to the value of R29,064,163.62 were made to the service provider. This equates to 30% of the total contract value. This means that SAA would need to spend 70% of the contract value in the last twelve-months of the contract period. Unless certain high-value maintenance projects were planned for the last year of the contract, it appears as if a significant underspend will be realised. It is critical that this contract is monitored to avoid an escalation of maintenance projects in the last 12 months to try and meet the estimated R97m that was approved by the BAC and CEO.

6.3.85. The following recommendations are made:

6.3.85.1. The SAA Board exercises its authority in terms of Section 51 of the Public Finance Management Act by providing Executives responsible for Global Supply Chain Management, Legal, Finance and Operations with an opportunity to:

6.3.85.1.1. Provide an explanation as to why the procurement process for electrical maintenance services took 3 years and 11 months to conclude.

6.3.85.1.2. Provide an explanation as to why it took 18 months to conclude a contract between SAA and Arcus Facilities Management.

6.3.85.1.3. Account for contravening Section 25.1.3.5 of the SCM Policy and Section 57 (a) and (c) of the PFMA by incurring the irregular expenditure of R22,945,930.00.

6.3.86. ARCUS FACILITIES MANAGEMENT - MAINTENANCE SERVICES (MECHANICAL)

6.3.87. Overview

6.3.87.1. In the past, SAA utilised the services of two service providers (SFU Engineering and UTS Services) to provide maintenance of the following services:

6.3.87.1.1. All Electrical, Mechanical and Ground Support Equipment;

6.3.87.1.2. All Heat Ventilation and Air-conditioning Equipment; and

6.3.87.1.3. Buildings, Civil and General Maintenance Services

6.3.87.2. The initial contracts with these service providers commenced on 1 December 2007 and expired on 30 November 2010.

6.3.87.3. Subsequently, the following extensions were made due to different reasons provided by the Business Units:

Letter of Extension	**Date**	**Period**
First	01/12/2010 – 28/02/2011	3 Months
Second	01/03/2011 – 31/07/2011	5 Months
Third	01/08/2011 – 31/01/2012	6 Months
Fourth	01/02/2012 – 31/07/2012	6 Months
Fifth	01/08/2012 – 31/01/2013	6 Months
Sixth	01/02/2013 – 31/07/2013	6 Months
Seventh	01/08/2013 – 31/01/2014	6 Months
Eighth	01/02/2014 – 31/07/2014	6 Months
Ninth	01/08/2014 – 30/09/2014	2 Months

Tenth	01/10/2014 – 30/10/2014	1 Month

6.3.87.4. The contracts with these service providers expired on 31 July 2014 and Facilities instructed the GSM to initiate an open-tender process for all the Facilities maintenance agreements.

6.3.87.5. In order to provide adequate time for hand-over and transition, a further two-month extension was requested with the submission to the BAC to approve the Evaluation Criteria and Weightings for the SAA Group (excluding Mango).

6.3.87.6. The open-tender was advertised and bid submissions closed on 8 July 2014.

6.3.87.7. Bids from the following five service providers were received:

6.3.87.7.1. Arcus FM Solutions;

6.3.87.7.2. Coolbreeze Air Conditioning;

6.3.87.7.3. Lobsy Refrigeration;

6.3.87.7.4. SFU Engineering; and

6.3.87.7.5. Lumacon Air Conditioning

6.3.87.8. The bids received were evaluated and the final recommendation was made to the BAC On 12 September 2014 to appoint Nwalo Investments t/a Lumacon Air Conditioning CC for the rendering of Heating, Ventilation and Air Conditioning Maintenance Services to the SAA Group (excluding Mango). The term of the services to be rendered was for a period of three-years commencing on 1 November 2014 at an estimated cost of R31,198,917.38.

6.3.87.9. On 26 September 2014, the BAC approved the extension of the existing contract, however decided to award the contract to the bidder second-in-line, Arcus Facilities Management Solutions (Pty) Ltd for a three-year period commencing 1 November 2014 at an estimated cost of R28,711,553.53.

6.3.87.10. The reasons for awarding the contract to Arcus Facilities Management Solutions (Pty) Ltd instead of Lumacon Air Conditioning included, inter-alia:

6.3.87.11. Lumacon Air Conditioning excluded certain scope requirements in their original bid (Pricing excluded spare parts); and

6.3.87.12. Lumacon Air Conditioning submitted a revised bid after the tender closing date.

6.3.87.13. On 5 October 2014, SFU Engineering (one of the bidders) lodged a complaint with regards to the awarding of this tender. The Acting BAC Chairperson (Mr Joseph Makoro) therefore requested Internal Audit to review the procurement process that led to the awarding of the GSM 035/2014 tender.

6.3.87.14. The Internal Audit Report dated 28 May 2015 reflects that the main objective was to verify whether there was compliance with the SAA SCM Policy. According to the Internal Audit Report there were no evidence indicating that there were irregularities with the tender process.

6.3.87.15. The contract between SAA and Arcus Facilities Management Solutions Pty Ltd was concluded in February 2016 and signed on behalf of SAA by the CPO (Dr Masimba Dahwa) and Interim CFO (Phumeza Nhantsi).

6.3.88. Detailed Findings

6.3.88.1. The initial contracts with SFU Engineering and UTS Services expired on 30 November 2010. Subsequently, ten extensions over a period of three-years and eleven-months were made before a new service provider was appointed.

6.3.88.2. The continued extension of contracts limits fair competition amongst service providers and does not ensure that SAA obtains the best solution for their service needs.

6.3.88.3. During the past twenty-four-month period (1 November 2014 to 30 October 2016), payments to the value of R11,647,227.70 were made to the service provider. This equates to 41% of the total

contract value. This means that SAA would need to spend 59% of the contract value in the last twelve-months of the contract period. Unless certain high-value maintenance projects were planned for the last year of the contract, it appears as if a significant underspend will take place.

6.3.88.4. Considering the commencement date of the new contract being 1 November 2014 and the fact that the contract was only concluded in February 2016, this action has resulted in irregular expenditure of R8,046,629.87 being incurred for the fourteen months in question.

6.3.88.5. The Internal Audit Report dated 28 May 2015 pertaining to the review of the tender process indicated that Lebogang Diale (Auditor) was part of the audit team who conducted the review. It was noted that this auditor also formed part of the CFST pertaining to this tender. The Internal Audit Department have therefore compromised their independence by allowing this auditor to audit an operational process of which he/she was part of.

6.3.89. The following recommendations are made:

6.3.89.1. The SAA Board exercises its authority in terms of Section 51 of the Public Finance Management Act by providing Executives responsible for Global Supply Chain Management, Legal, Finance and Operations with an opportunity to:

6.3.89.1.1. Provide an explanation as to why the procurement process for mechanical maintenance services took 3 years and 11 months to conclude.

6.3.89.1.2. Provide an explanation as to why it took 14 months to conclude a contract between SAA and Arcus Facilities Management.

6.3.89.1.3. Account for contravening Section 25.1.3.5 of the SCM Policy and Section 57 (a) and (c) of the PFMA by incurring the irregular expenditure of R8,046,629.87.

6.3.90. SFU ENGINEERING – BUILDINGS, CIVIL and MAINTENANCE SERVICES

6.3.91. Overview

6.3.91.1. In the past, SAA utilised the services of two service providers (SFU Engineering and UTS Services) to provide maintenance of the following services:

6.3.91.1.1. All Electrical, Mechanical and Ground Support Equipment;

6.3.91.1.2. All Heat Ventilation and Air-conditioning Equipment; and

6.3.91.1.3. Buildings, Civil and General Maintenance Services

6.3.91.2. The initial contracts with these service providers commenced on 1 December 2007 and expired on 30 November 2010.

6.3.91.3. Subsequently, the following extensions were made due to different reasons which were informed by the Business Units:

Letter of Extension	**Date**	**Period**
First	01/12/2010 – 28/02/2011	3 Months
Second	01/03/2011 – 31/07/2011	5 Months
Third	01/08/2011 – 31/01/2012	6 Months
Fourth	01/02/2012 – 31/07/2012	6 Months
Fifth	01/08/2012 – 31/01/2013	6 Months
Sixth	01/02/2013 – 31/07/2013	6 Months
Seventh	01/08/2013 – 31/01/2014	6 Months
Eighth	01/02/2014 – 31/07/2014	6 Months
Ninth	01/08/2014 – 30/09/2014	2 Months

Tenth	01/10/2014 – 30/10/2014	1 Month

6.3.91.4. The contracts with these service providers expired on 31 July 2014 and Facilities instructed The GSM to initiate an open-tender process for all the Facilities maintenance agreements.

6.3.91.5. In order to provide adequate time for hand-over and transition, a further two-month extension was requested with the submission to the BAC to approve the Evaluation Criteria and Weightings for the SAA Group (excluding Mango).

6.3.91.6. The open-tender was advertised and bid submissions closed on 8 July 2014.

6.3.91.7. Bids from the following service providers were received:

6.3.91.7.1. Arcus FM Solutions;

6.3.91.7.2. Solethu Energy;

6.3.91.7.3. SFU Engineering;

6.3.91.7.4. Musah Empire;

6.3.91.7.5. Building Again Projects 203 CC;

6.3.91.7.6. Pebblestone Properties; and

6.3.91.7.7. Mahlatsi Tumelo.

6.3.91.8. The bids received were evaluated and the final recommendation was made to the BAC on 12 September 2014 to appoint Usizo Technical Services CC (UTS) and SFT Joint Venture t/a SFU Engineering for the rendering of Building, Civil and General Maintenance Services to the SAA Group (excluding Mango). The term of the services to be rendered was for a period of three-years (with an option to extend) commencing on 1 November 2014 at an estimated cost of **R23,324,437.00** (VAT inclusive).

6.3.91.9. The BAC approved the award of the tender to the SFU Engineering joint venture on 19 September 2014 for a period of three years commencing on 1 November 2014 to 31 October 2017.

6.3.91.10. The contract between SAA and the SFU Engineering joint venture was concluded on 19 October 2015 and was signed on behalf of SAA by the Acting CFO (LS Olitzeki) and CPO (Dr Masimba Dahwa).

6.3.91.11. On 28 November 2014, the GSM made a submission to the BAC to extend the scope of the contract with the SFU Engineering joint venture. The scope extension included the maintenance of the Call Centre Management and the provision of AutoCAD services. The BAC approved the scope extension on 5 December 2014 for an interim period of six-months (1 December 2014 to 30 June 2015) at an estimated cost of **R1,371,315.48** (including VAT). Subsequently the GSM made another request to the BAC to extend the Call Centre and AutoCAD services on a month to month basis commencing 1 July 2015, which was approved by the BAC on 29 May 2015.

6.3.91.12. Another maintenance project was subsequently initiated by the GSM and a submission to the BAC was made on 7 November 2016. This project pertained to the GSM Office Revamp, which was triggered by findings of Internal Audit that the GSM offices was at risk due to the unsafe keeping of tenders and easy access to the GSM Department.

6.3.91.13. The GSM therefore requested the BAC to approve the confinement and award of the work for the GSM Office Revamp to the SFU Engineering joint venture and Arcus FM Solutions respectively for an estimated amount of **R1,782,215.76** (SFU) and **R732,146.41** (Arcus).

6.3.91.14. The abovementioned confinement and award of the GSM Office Revamp was approved and awarded by the BAC on 11 November 2016.

6.3.92. Detailed Findings

6.3.92.1. The initial contracts with SFU Engineering and UTS Services expired on 30 November 2010. Subsequently, ten extensions over a period of three-years and eleven-months were made before a new service provider was appointed.

6.3.92.2. The continued extension of contracts limits fair competition amongst service providers and does not ensure that SAA obtains the best solution for their service needs.

6.3.92.3. During the past twenty-six-month period (1 October 2014 to 30 November 2016), payments to the value of R32,204,156.68 were made to the service provider. This means that the budget for all the maintenance services had already been exceeded. Bearing in mind that the contract expires on 31 October 2017, a substantial overspend is likely to be incurred.

6.3.92.4. Irregular expenditure amounting to R23,251,606.81 for the period 1 October 2014 to 19 October 2015 was identified due to the contract being signed late. The late signing of the contract has resulted in SAA being placed in a precarious and vulnerable position.

6.3.92.5. No evidence could be found that the extension of scope for the inclusion of the Call Centre Management and the provision of AutoCAD services were incorporated as part of the contract between the parties. This places SAA at risk and may result in additional irregular expenditure.

6.3.92.6. The GSM faced several non-performance issues with SFU Engineering since 2015. Numerous communications including three letters relating to non-performance and a final letter dated 23 November 2015 forced the GSM, Legal and Facilities to agree on terminating the agreement with SFU Engineering.

6.3.92.7. As a contingency plan, the GSM made a submission to the BAC on 27 January 2016 to request the BAC to approve the award of the Building and Civil Maintenance services for SAA Group (excluding Mango) to Ba-Phalaborwa 72 Construction and Engineering CC for

a period of six-months after the termination process of the current service provider has been completed.

6.3.92.8. This contingency plan was apparently stopped by the BAC and the GSM was requested to manage the non-performance issues of SFU Engineering.

6.3.93. The following recommendations are made:

6.3.93.1. The SAA Board exercises its authority in terms of Section 51 of the Public Finance Management Act by providing Executives responsible for Global Supply Chain Management, Legal, Finance and Operations with an opportunity to:

6.3.93.1.1. Provide an explanation as to why the procurement process for Buildings, Civil and Maintenance services took 3 years and 11 months to conclude.

6.3.93.1.2. Provide an explanation as to why it took 12 months to conclude a contract between SAA and Arcus Facilities Management.

6.3.93.1.3. Account for contravening Section 25.1.3.5 of the SCM Policy and Section 57 (a) and (c) of the PFMA by incurring the irregular expenditure of R23,251,606.81.

6.3.93.1.4. Account for exceeding the approved budget by R4 994 042.03 which should be classified as irregular expenditure.

6.3.93.2. Failure to provide satisfactory responses should result in appropriate steps taken against responsible officials in line with Section 51 (e).

DRAFT

Annexure A – General Limitations

The procedures followed in this investigation do not constitute an audit in accordance with Generally Accepted Auditing Standards and we did not express an audit opinion. The findings of the investigation do not form part of any audit report.

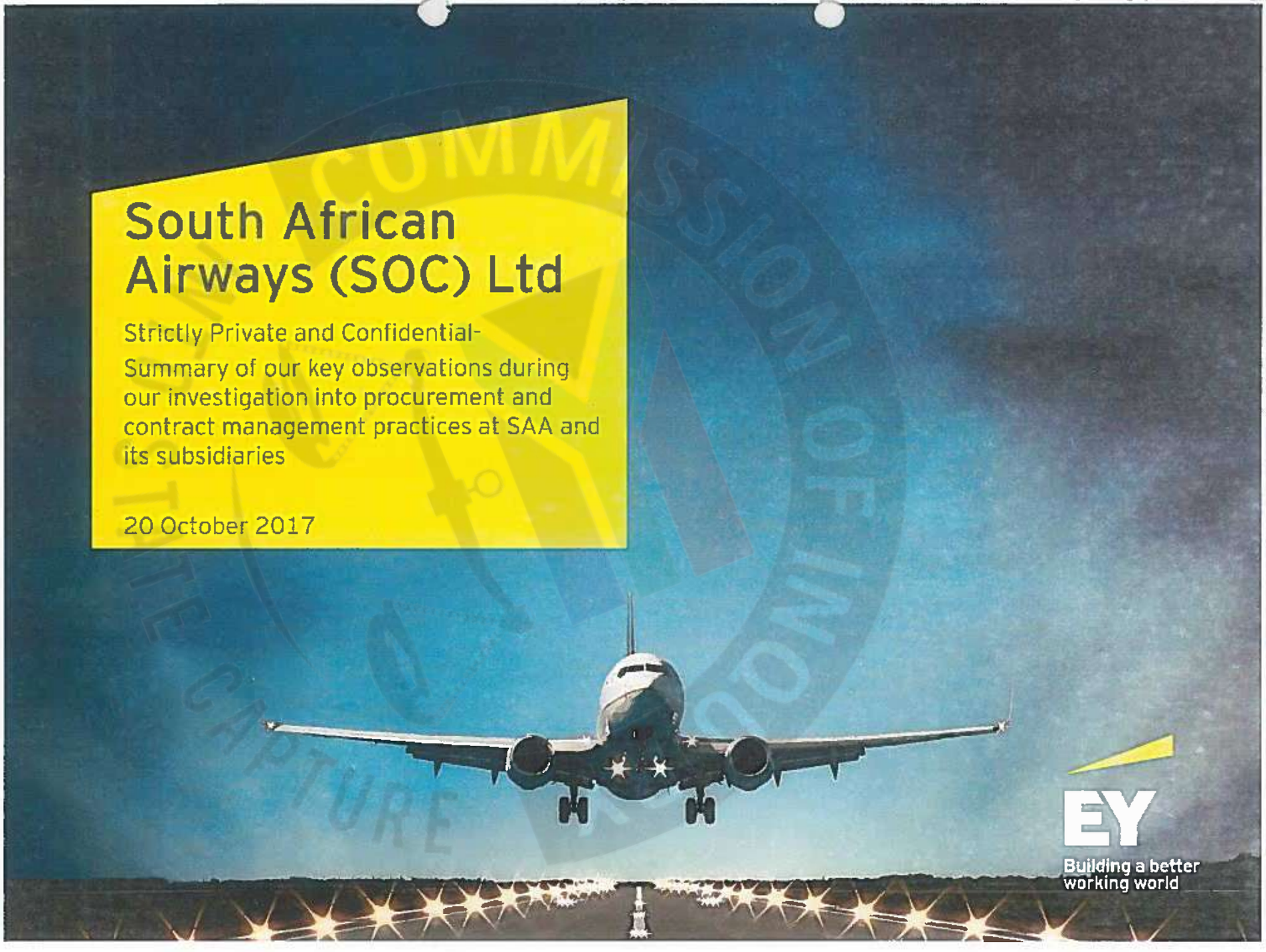
Although we endeavour to be as comprehensive as possible in gathering information, we cannot guarantee the accuracy or completeness of information obtained from external sources.

Although we have taken reasonable steps to ensure that the information obtained is authentic, we cannot guarantee the authenticity of the information. Our findings are based on information at hand to date of the draft report; as such we cannot conclude that we have had sight of all relevant information.

The draft report is based on the facts established from documentation reviewed and information obtained during the course of the investigation. Should we receive any additional information after date of issuing this draft report, our findings and recommendations may change.

This draft report is to be used solely for the purposes and subject to the limitations as set out in this paragraph. This draft report may not be used for any other purpose, without our prior consent.

Information is provided to you on the basis that it will remain confidential and will not be disclosed to any third party, unless agreed to in writing



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DD34-DCM-1034



Disclaimer

The purpose of this presentation is to provide the Audit and Risk Committee of South African Airways ("the ARC") with an overview of the EY investigation into procurement and contract management practices, the approach adopted by EY, the management of the draft report and other correspondence, the responses of management, EY's key findings and supplementary matters.

This presentation is intended for the information and use of the ARC. It is not intended, and may not be used, for any other purpose or by anyone other than the ARC, without our prior written consent. No part may be quoted, referred to or disclosed in whole or in part to any other party, or be used for any other purpose, without our prior written consent. EY therefore assumes no responsibility to any user of this presentation. Any other persons, who choose to rely on the content of this presentation, do so entirely at their own risk.

We reserve the right to amend and/or qualify this presentation if any additional/new documentation or information is brought to our attention. As the content herein is in an abbreviated format, it does not reflect all the explanations a full written document would have provided. Accordingly, this presentation should be considered in conjunction with our detailed report (Volumes 1 to 6).

The observations set out in this document are based on our procedures performed, and identified based on those contracts considered, and should be seen and interpreted in that light. As we did not conduct an audit, these may not be all the areas where weaknesses exists and improvements may be required.

It should be noted that as per the mandate between EY and SAA, the nature of the work performed was an investigation into procurement and contract management practices, and not a detailed forensic investigation.

Due to the time that has elapsed since the issuing of our draft report, some of these recommendations may have already been implemented and/or circumstances may have changed to render them unnecessary.

We do not accept responsibility for any loss or damage you or any third party may suffer as a result of using the information provided.

DD34-DCM-1035

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DD34-DCM-1036



Background

DD34-DCM-1037



Background

- In 2015 the then Board of SAA was concerned that there were inefficiencies in its procurement process that resulted in financial losses. The concerns *inter alia* lay in areas of a lack of commercial evaluation, competitive bidding, contracting, monitoring of spend and potential maladministration.
- The Board mandated an investigation into procurement and contract management practices at SAA under RFQ: GSM 120/15. In response to the RFQ, the Board appointed EY on 24 July 2015 to conduct a limited scope investigation into procurement and contract management practices at SAA and three of its subsidiaries, in order to specifically answer the 14 questions provided by the Board.
- The mandate provided that the investigation be conducted under the supervision of a Board sub-committee headed by the chair of Audit and Risk, Ms Yakhe Kwinana, and including (until they resigned) Mr Tony Dixon and Dr John Tambi.
- The Board appointed Mr Nick Linnell of "The Project Office" to coordinate the investigation into procurement and contract management practices, between the Board sub-committee and the EY team.
- We considered 43 contracts across all of the four business entities (SAA, SAAT, Mango and Air Chefs), and considered them in line with the specific questions raised by the Board.

DD34-DCM-1038



Background (cont.)

- The engagement was not open ended, but focussed on answering 14 specific questions raised by the Board , being **the following**:

1. *"How does SAA sign some of its agreements which produce no benefit to SAA at a cost of Millions?*
2. *How does SAA allow contracts with some service providers where SAA could have done the work using own Human Resources?*
3. *Why are SAA outsourcing expenses so high? Are there costs warranted or should SAA do the work using own resources? Is SAA overpaying for some services?*
4. *Does SAA negotiate best deals with services providers?*
5. *SAA have contracts which were not signed and contracts signed invalidly. How is it that SAA did not identify these contracts before the work was done?*
6. *Are contract values market related? Does SAA overpay for services?*
7. *Is there a better way of doing things or evaluating things?*
8. *Is SAA quick enough to respond to deviations from budgets?*
9. *Does SAA monitor expenditure on contracts effectively, i.e. does SAA get the best for each rand?*
10. *Who monitors National Industrial Participation (NIP) offsets delivery?*
11. *Does SAA evaluate the value-add and pricing of contracts and performance of delivery effectively?*
12. *Does SAA know whether outsourced services provided add value?*
13. *Does SAA identify and report on unusual transactions or contracts or non-performance of major projects?*
14. *Was there full compliance with the SAA procurement policy when SAA procured the goods and services and entered into contracts?"*

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Background (cont.)

- It is our understanding that the first Phase (which EY was mandated to perform) was to identify a sample of contracts across the four business units and by answering the 14 specific questions raised by the Board [listed in the preceding slide], identify any weaknesses and/or causes that may be indicative of weaknesses across the broader procurement practices of SAA and its subsidiaries.
- As a second Phase, using these findings of Phase 1, SAA would launch an improvement programme to create a platform for material improvement in the procurement and contract management practices of SAA and its subsidiaries.

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Key interactions

- EY on an ongoing basis engaged the Board and its appointed representative, as per the following:

Date	Audience	Purpose	Communication method
23 June 2015	-	Submission of first response document	Electronic
21 July 2015	-	Submission of revised response document	Electronic
24 July 2015	Attended meeting with the Chairperson of the ARC, Dr Tambi and CAO	Meeting with SAA regarding EY's appointment EY Statement of Work	Physical attendance
11 August 2015	ARC Chair and Board representative	Progress report	Written document
17 August 2015	ARC Chair and Board representative	Discussion of progress report	Interactive session with accompanying PowerPoint presentation
02 September 2015	ARC Chair and Board representative	2nd Progress report	Written document
19 October 2015	ARC Chair and Board representative	Presentation of interim observations	Interactive session with accompanying PowerPoint presentation
17 December 2015	Board	Submission of draft report	Email/hardcopy
1 February 2016	Board representative	Discussion of detailed findings and preparation for Board presentation	Interactive session

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Key interactions cont.

- EY on an ongoing basis engaged the Board and its appointed representative in order to present the draft report, as per the following:

Date	Audience	Purpose	Communication method
19 February 2016	SAA Board	Presentation of the draft report and possible remedial actions to consider	Full day interactive session with EY team leaders and SAA Board
26 May 2016	Chairperson of the Board	Letter from EY regarding observations in respect of AAR	Letter
28 June 2016	EXCO of SAA and its subsidiaries	Presentation of the draft report The presentation was halted (whilst in session) at the behest of the Acting CEO, requesting that each subsidiary be afforded an opportunity to consider the draft report content. It should be noted that EY had on previous occasion submitted the draft report to the Company Secretary for the purpose of distribution to the various business units. For reasons unknown to EY, the draft report was not circulated. Further, EY had also suggested that the report be discussed individually with the respective business units and not a collective group meeting. This proposal/suggestion was declined.	Full day interactive session with EY team leaders and the various SAA and subsidiaries' EXCO.
28 June 2016	Air Chefs	Feedback with Air Chefs management on findings	Meeting
4 July 2016	Air Chefs	Feedback with Air Chefs management on findings	Meeting

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Key interactions cont.

- EY on an ongoing basis engaged the Board and its appointed representative in order to present the draft report, as per the following:

Date	Audience	Purpose	Communication method
21 September 2016	Minister of Finance	On 21 September 2016, the Chief Audit Officer and the deputy Company Secretary contacted EY with a request to provide the Minister of Finance will an unrestricted electronic copy of the report. EY agreed and requested that the Acting CEO provide a written instruction on behalf of the Board to create and provide an unrestricted electronic copy. This permission was granted on 29 October 2016 and EY provided a copy to the deputy company secretary.	Email and report
19 October 2016	Chairperson of the Board	Request to present our draft report	Letter
20 October 2016	Chairperson and Deputy Chairperson of the Board	Request to present our draft report	Letter
1 August 2017	-	Receipt of Management Comments for inclusion into the draft report	Received *via* the office of the Chief Audit Officer
5 September 2017	Air Chefs	Feedback with Air Chefs management on draft report findings and management comments	Meeting

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Report volumes

- The draft report submitted during December 2015 consisted of 6 Volumes:
  - Volume 1: Summary - 189 pages*
  - Volume 2: Air Chefs - 59 pages*
  - Volume 3: SAA - 90 pages*
  - Volume 4: Mango - 42 pages*
  - Volume 5: SAAT - 134 pages*
  - Volume 6: Combined: SAA and its subsidiaries - 67 pages*
- On 1 August 2017 we received management comments from all subsidiaries through the office of the Chief Audit Officer, with varying levels of detail. These management comments have been included into the report.
- The majority of our recommendations as set out in the respective Volumes have been adopted / implemented by SAA and the other business units. For the detail of adoption / implementation of our recommendations, your attention is drawn to Volumes 2 to 6.

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Draft report submission

- It is our understanding that the new Board has not yet considered the draft report. In this regard, EY delivered the draft report on the following occasions:

Date	Document	Delivered to
23 November 2015	Volume 1	Board and Board representative
8 January 2016	Volume 5	Board representative
12 January 2016	Draft report - Vol 1 to 6	Board representative
18 August 2016	Draft report - Vol 1 to 6	Company Secretary
28 October 2016	Draft report - Vol 1 to 6	Company Secretary
16 January 2017	Draft report - Vol 1 to 6	Company Secretary
29 June 2017	Draft report - Vol 1 to 6 (2 copies of each)	Company Secretary

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Overview of findings

DD34-DCM-1046



Overview - Findings legend

- We have summarised the contracts we considered and colour coded our findings into the following categories. Where we make reference to SAA, this includes reference to the three subsidiaries:

Colour	Category	Number of contracts	Percentage of contracts
	Matters of concern identified relating to the contract requiring your immediate and/or urgent intervention. By not addressing these concerns, SAA may be exposed to financial loss, risk of serious misconduct or legal liability in the event of a dispute	9	21%
	Control weaknesses or housekeeping issues were identified relating to the contract. SAA should address the concerns identified	22	51%
	Given the procedures performed, no concerns were identified	12	28%
Total		43	100%

- Whilst we categorise each of the contracts considered according to the legend above, it should be noted that no contract was subject to a unique observation, but rather a summary of the total observations applied.
- We further summarise the management comments received in relation to each contract considered, per entity.

DD34-DCM-1047



Overview - Air Chefs

Service provider	Nature of service	Reason for selection	Outcome
ADJ Maintenance	Vehicle and building maintenance (CPT)	EY selection	Control weaknesses identified
Alpine Butchery	Meat supplier	Largest	Control weaknesses identified
Blue Marine	Frozen foods	Largest	Control weaknesses identified
Botho Ubuntu	Cleaning of plants	EY selection	No concerns identified
Clad Fresh	Vegetable providers	EY selection	No concerns identified
DF Bakery	Bakery	Largest	No concerns identified
First Garment (2 contracts)	Laundry and lease of uniforms	Oldest	Control weaknesses identified
Security Seal	Simlock seal providers	Oldest	Control weaknesses identified
Vizzini Motors	Vehicle maintenance	Oldest	Control weaknesses identified

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Management/internal audit comments – Air Chefs

Contract	No. of recommendations	Management Comments			
		Recommendation accepted and will be implemented	Risk accepted	Not commented	Contested
ADJ Maintenance	3	3			
Alpine Butchery	1	1			
Bidvest Food Services	1	1			
Botho Ubuntu	-				
Clad Fresh	-				
DF Bakery	-				
First Garment	2	1	1		
Security Seal	1	1			
Vizzini Motors	1		1		
Total	9	7	2		

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Overview - SAA

Service provider	Nature of service	Reason for selection	Outcome
Airbus	Supply of aircraft	Board selection	No concerns identified
BP/Shell (2 contracts)	Fuel	Largest	Issues identified
Gabfol Lounge	Leasing/catering (Nigeria)	EY selection	Control weaknesses identified
KWE	Logistics	Board selection	Issues identified
Reshebile	Security	EY selection	Control weaknesses identified
SAA Cargo	Cargo	EY selection	Issues identified
Servopack	Insecticide spray	Oldest	Control weaknesses identified
SITA	IT	Oldest	Issues identified
Swissport/Bid Air (2 contracts)	Ground handling	EY selection (largest)	Issues identified

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Management/internal audit comments - SAA

Contract	No. of recommendations	Management Comments			
		Recommendation accepted and will be implemented	Risk accepted	Not commented	Contested
Airbus	1	1			
[illegible]	2	2			
Gabfol Lounge	2	2			
[illegible]	5	3		2	
Reshebife	6	6			
[illegible]	4	2		2	
Servopack	1	1			
[illegible]	5	5			
[illegible]	5	5			
Total	31	27		4	

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Overview - Mango

Service provider	Nature of service	Reason for selection	Outcome
BidAir	Ground handling	EY selection (largest)	No concerns identified
BP	Fuel	EY selection	No concerns identified
ezy	Website design	Oldest	No concerns identified
First Catering	On-board catering	Oldest	Control weaknesses identified
Gendel	Advertising	Largest	No concerns identified
InterVISTAS	Route planning (SAA/Mango)	Board selection	No concerns identified
Ndiza	Voucher and coupon revenue management	EY selection (oldest)	Control weaknesses identified
SAA Fuel	Fuel	Largest	No concerns identified
SAAT Maintenance	Maintenance	Largest	Control weaknesses identified
Wings	On-board catering (Lanseria)	EY selection	Control weaknesses identified

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Management/internal audit comments - Mango

Contract	No. of recommendations	Management Comments			
		Recommendation accepted and will be implemented	Risk accepted	Not commented	Contested
BidAir	-				
BP	-				
ezy	-				
First Catering	4	4			
Gendel	1	1			
InterVISTAS	-				
Ndiza	1	1			
SAA Fuel	-				
SAAT Maintenance	2	1		1	
Wings	4		1	3	
Total	12	7	1	4	

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Overview - SAAT

Service provider	Nature of service	Reason for selection	Outcome
Air France / AAR (2 contracts)	Component supplier	Air France - Largest (oldest) AAR - Board selection	Issues identified
ELFC	Engine leasing	SAAT CEO/Chief Procurement Officer ("CPO") request	No concerns identified
KWE	Logistics	Largest (oldest)	Control weaknesses identified
Lufthansa	Engine maintenance	Largest (oldest)	No concerns identified
Mtha/Savuka (2 contracts)	Cleaning rags	SAAT CEO/CPO request	Control weaknesses identified
SAFOMAR	Paint	EY selection	Control weaknesses identified
The Tape Connection	Adhesives	EY selection	Control weaknesses identified
Scrapping (3 contracts)	Scrapping	Board selection	Control weaknesses identified

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Management/internal audit comments - SAAT

Contract	No. of recommendations	Management Comments			
		Recommendation accepted and will be implemented	Risk accepted	Not commented	Contested
Air France/component lender	9	3		5	1
AAR	3	1	1		1
ELFC	-				
Kintetsu	5	4		1	
Lufthansa	-	-			
Mtha/Savuka	4	4			
SAFOMAR	3	3			
The Tape Connection	1	1			
Scrapping	2	2			
Total	27	18	1	6	2

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Contract and procurement inefficiencies identified

DD34-DCM-1056



Contract and procurement inefficiencies identified

- Our mandate was focused on answering the specific questions posed by the Board.

- In answering these questions, we identified a number of procurement and contract management related concerns/inefficiencies across the group, which we have categorised and will discuss under the following headings:

1. Inadequate contractual arrangements
2. Poor contract monitoring and lack of enforcement
3. Shortcomings in the tender process
4. Inadequate monitoring of goods and services procured
5. Invoicing concerns
6. Supplier transformation

DD34-DCM-1057

Key observations

Area of weakness identified	Evidenced by	Applicable contract identified	Remedial actions to consider
1 Inadequate contractual arrangements	1.1 - Contracts with key service providers are either not in place or have expired	Air Chefs: • First Garment (CA) Mango: • First Catering • Ndiza SAA: • KWE SAAT: • Tape Connection	Negotiate and enter into written contracts, taking value for money and pricing structure into consideration. Contracts should be drafted ensuring SAA, and its subsidiaries are adequately guarded against risk. Expired contracts are to be renegotiated and renewed if the business case therefore is still relevant. Procurement on an ad-hoc basis should be limited where possible. A contract management and monitoring system should be put in place allowing advanced notification of contracts nearing expiry. This will allow for contracts to be advertised and concluded timeously (a review of the current system functionalities may be required).
	1.2 - Engaging suppliers on a month-to-month basis	SAA: • Reshebile • SwissPort SAAT: • Air France	Appropriate contracts should be entered into for adequate periods/duration to be agreed with suppliers. Longer term contracts may place SAA in better negotiating position in terms of pricing and prevent multiple tender advertisements for the same contract. A lack of contract management results in preferential rates lapsing (in effect a penalty).
	1.3 - Utilising only an MoU with no agreed contract in place to regulate business relationships, with multiple extensions	Air Chefs: • Vizzini SAA: • Servopak	
	1.4 - Retention and availability of contracts	Air Chefs: • First Garment (CA) • Vizzini SAAT: • Air France • Lufthansa Mango • Ndiza	Creating a central repository for the retention of contracts and other relevant agreements or documents, including Amendments, MoU's and/or extensions, thereby ensuring visibility of contracts and other documentation centrally. This would be beneficial in the event of: • Documentation having to be produced during possible civil proceedings; and • Performance monitoring, trend analysis and invoice confirmation.
	1.5 - Delays in entering into contracts. The current approval model where Board approval is required, is not agile enough to meet procurement needs	Mango: • First Catering SAA: • SwissPort • Fuel contracts	Implement a process which facilitates the entering into of contracts avoiding unnecessary delays, and exposing SAA and its subsidiaries to risk. Streamlining contract drafting, approval and archiving. Consideration could be given to allow contract approvals being expedited by way of Board Round Robin approvals.

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Key observations

Area of weakness identified	Evidenced by	Applicable contract identified	Remedial actions to consider
2 Poor contract management and lack of enforcement	2.1 - Contract spend is not monitored. Contract budget/ threshold exceeded, which would have required an alternate procurement process	Air Chefs: • ADJ Maintenance • Alpine Butchery • Security Seal Services	Immediate actions: Contract managers to: • Ensure scopes of work and/or services are defined clearly to avoid ambiguity; and • Monitor contract spend on a frequent (e.g. monthly) basis and consider going out to tender for specific services where spend warrants such. Comparisons between contract scope and invoice scope to be performed prior to payment. This verification may also serve as an indication/early warning of a incorrectly scoped contract or services procured out of contract. Deviations from the budget should be reported timeously, and reasons therefore established to mitigate reoccurrence. Consider the enforcement of consequence management. Staff should be held responsible and accountable in terms of carrying out their respective duties. Medium term actions: Improvement of contract management processes through control self assessments, benchmarking and internal audit reviews. Consider analytics and reports to identify contract performance (through system based analytics).
	2.2 - Unclear scope of work defined in contract(s)	Air Chefs: • ADJ Maintenance • Blue Marine SAAT: • Air France	

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Key observations

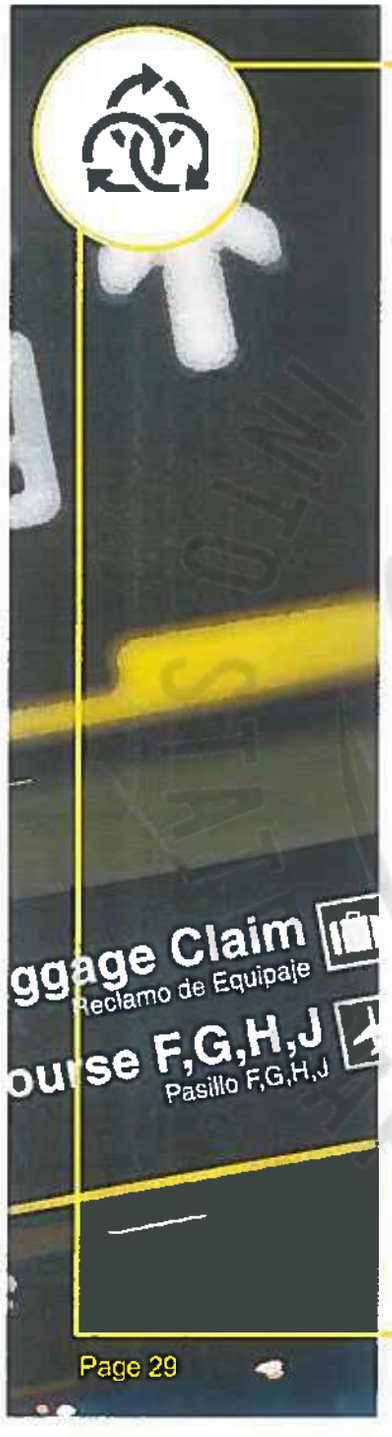
Area of weakness identified	Evidenced by	Applicable contract identified	Remedial actions to consider
3 - Shortcomings in the tender process	3.1 - Contracts extended without following due process and/or testing the market	Mango: • Ndiza • Gendel SAA: • Servopak • Reshebile SAAT: • Air France (Amendment 23 - outstanding issue)	Contract managers/procurement to ensure that the market is tested on a frequent basis, eliminating the practice of extending contracts without confirming whether the pricing is competitive and value for money. Procurement using the appropriate process should be enforced (condonation should be limited and adequately documented for transparency purposes).
	3.2 - Potential Collusion: KWE: Potential collusion between SAA officials and a purported BEE partner of KWE, which appear to have been a misrepresentation as to the true status of the relationship AAR: The concerns noted with the BEE structure of AAR	SAA: • KWE SAAT: • AAR	Consider further investigation into the two issues identified (AAR and KWE). Appropriate procedures to be developed and implemented across the organisation to confirm the following: 1. Legal existence of the entity; 2. Nature of services rendered by an entity aligns to the specific goods and/or services required; 3. Director and Shareholder verification; and 4. Internal conflict of interest screening and verification on an entity wide basis.
	3.3 Conflict of interest monitoring procedures	SAAT: • MTHA: The existence of a relationship between SAA official and service provider to SAAT	The conflict of interest declaration process to ensure that all declarations are retained centrally and updated - concern pertains to the accessibility of such declarations.
	3.4 - Inaccurate goods description resulting in reduction of price (revenue generating)	SAAT: • Scrapping contracts	An accurate description of goods should be provided in respect of items placed out on tender. The terms and conditions of tender responses should also be strictly enforced (e.g. goods sold as is, interested parties may inspect the goods). The control weaknesses identified by SAA internal audit pertaining to poor policies and procedures should be attended to.

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Key observations

Area of weakness identified	Evidenced by	Applicable contract identified	Remedial actions to consider
4 Inadequate monitoring of goods and services procured	4.1 - The consumption/usage of goods/services is not monitored effectively, or not possible based on available system information	Air Chefs: • Food storage and usage SAAT: • KWE • Mtha • SAFOMAR (min/max bin stock *versus* consumption) • Purchase of tools (alleged)	Consider implementing an inventory planning and monitoring system – Materials Resource Planning (taking into consideration the capabilities of the current systems available). Consequent management for non-compliance to be enforced across the whole organisation.
5 Invoicing concerns	5.1 - Rate per invoice does not correlate to contractual rate, yet invoices approved for payment	Air Chefs: • First Garment (staff uniform) • Vizzini SAAT: • Air France (System error) Mango • SAAT intercompany account	Invoices should be checked against the contracted rates, or alternatively, rates should be pre-entered into the SAP system (where possible and would be system and service procured dependent). Invoices should be detailed (broken down into the components as agreed upon in the contract and/or agreement), for easy verification and confirmation. Consider the recovery of moneys overpaid as detailed on slide 34.
	5.2 - Invoices lack sufficient detail to identify services rendered/goods procured	Air Chefs: • ADJ Maintenance SAAT: • Air France (T&M)	
	5.3 - Inefficient process to confirm invoice totals. Invoice descriptions does not allow for easy interpretation and independent verification Due to the volume and number of invoices, it is not always possible to verify accuracy of invoices	SAAT: • KWE • Air France (PBTH) Mango: • Wings • First Catering	
	5.4 - Overpayment to supplier due to incorrect calculations	SAA: • KWE	
	5.5 - Overpayment due to invoicing items contractually covered under monthly flat fee (double payment)	SAAT: • Air France	

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6 Supplier transformation

Supplier transformation and the drive to increase procurement of goods/services from BEE entities is high on the agenda of SAA.

In certain instances SAA does not have adequate internal processes in place to ensure that this objective is achieved. These lack of procedures may expose SAA to the following:

- Fronting;
- Conflict of interest; and
- Uncompetitive pricing due to limited industry specific competition in the market.

DD34-DCM-1062



6 Supplier transformation (cont.)

The above concerns are evidenced by the following observations:

- BEE transformation requirements of SAA are not clearly defined in order for all bidders to be aware of the requirements before they submit bids;
- SAA's insistence on selecting possible BEE partners has led to:
  - The delay in entering into Swissport contract, despite a BEE entity being put forward. Savings have not been realised; and
  - The delay in entering into long term fuel contracts, due to the non-existence of an acceptable BEE provider, resulted in higher rates being charged by suppliers as a result of short term extensions.
- Third parties purportedly introducing themselves as BEE partners of KWE;
- Lack of vetting procedures BEE entities/partners or joint ventures; and
- Concerns raised by individuals familiar with the process on how BEE partners are identified and selected.

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6 Supplier transformation (cont.)

Recommendations:

- In respect of ground handling, should SAA deem the ACSA accredited entities as not being suitably transformed, SAA should liaise with ACSA in order to determine whether the license conditions of the three licensed services providers allow for subcontracting of some of their services to BEE SMMEs who are not yet accredited by ACSA;

- Until such time that a dedicated BEE jet fuel supplier, meeting SAA's requirements and able to provide the required volumes at competitive rates is identified, SAA should consider going out on tender and entering into long term contracts with current providers, capable of providing the required volumes;

- SAA in drafting tender specifications, should in a clear and timely manner define the expected BEE transformation requirements, informing all bidders of the requirements before they submit bids; and

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6 Supplier transformation (cont.)

Recommendations:

- Cognisance should also be taken of the recently enacted Preferential Procurement Regulations which should assist in addressing the concerns identified, especially the sections that deal with:
  - **Prequalification criteria** – Regulation 4
  - **Evaluation based on functionality** – Regulation 5
  - **Subcontracting as condition of tender** – Regulation 9

DD34-DCM-1065



6 Supplier transformation (cont.)

We noted that BEE played a role in the following contracts/transactions to the possible detriment of SAA:

Contract/ Service	Entity	Concerns identified	Reason
Fuel	SAA	Continuous six-month contract extensions that resulted in SAA paying higher costs (in terms of the differential) and not realising possible savings that could be achieved by entering into contracts with existing providers.	At the time of our engagement in 2015, we understand there was no fuel provider who complied with SAA's BEE requirements.
AAR	SAAT	Supplier on SAAT development database being dictated to with regards to BEE partners. This was in response to the Components Tender which SAAT had advertised during 2015.	Supplier informed that it did not participate in the response, yet their details are recorded on the tender response documents.
Mtha	SAAT	SAAT accepted an increase in pricing that was higher than what it had paid when it procured the goods from directly from the manufacturer.	SAAT rejected the initial award as the successful entity did not have the required BEE credentials. This resulted in the appointment of Mtha, as an intermediary, which resulted in SAAT paying a higher price.
KWE	SAA	SAA met with KWE to discuss their BEE transformation. A former employee of SAA, who left SAA whilst under investigation, attended the meeting with two ladies and claimed to be BEE partners of KWE. KWE management denied the claims that they were their BEE partners.	Potential collusion between SAA officials and a purported BEE partner of KWE, which appear to have been a misrepresentation as to the true status of the relationship.
Swissport	SAA	SAA Board requested Swissport to set aside 30% of their contract for BEE SMMEs.	ACSA did not have accredited BEE SMME's in respect of ground handling.
Callington	SAA	Callington complained to SAA about the manner in which they were approached by a company called Ntsako Industries (Pty) Ltd during the time when they (Callington) were engaged by SAA to achieve the transformation objectives.	Attempts being made by unknown outside parties to be BEE partners of Callington in order for them to adhere to SAA's transformation requirements.
Reshebile/ Securitas	SAA	SAA Board approved the award of the security services contract to Reshebile and Securitas, subject to certain conditions being met by Securitas relating to BEE ownership or partnership.	ACSA had a list of nine accredited security service providers and subcontracting was not permissible.

DD34-DCM-1066

Potential recovery / savings opportunities

During our consideration of the various contracts, we identified the following potential recovery / savings opportunities

Service	Entity	Supplier	Potential loss	Potential savings	Explanation/Rationale	Management comments
Ground handling (wheel chair pushes)	SAA	Swissport	-	Range between R1,9 to R4,8 million (Jan 15 to Jul 15)	SAA pays a fixed monthly price of R1,12million, where Mango pays a price of R105 per unit. The average unit price for SAA was calculated to be R278 over the period Jan 15 to Jul 15.	Consultations will take place between Legal, GSM and Business to confirm the possibility of renegotiation given that the new contract has already been signed and concluded.
Ground handling (all services)	SAA	Swissport BidAir	R92,9 million (Mar-13 to Feb-18)	-	The contract with Swissport (based on the 2013 award) had still not been concluded at the time of our engagement. The cause of delays according to GSM were attributable to: • Contract negotiations (1 August 2012 to 19 November 2014); • Withdrawal of Air Chefs and SAAT from rendering some of the services in-house; • SAA Board requested to approve the terms and conditions of the proposed contract between SAA and Swissport; and • SAA Board approved an extension of the Swissport contract subject to 30% of the contract being set aside for BEE SMMEs. (This resolution was taken by the Board without obtaining a submission from GSM).	A five-year contract going beyond the 2018 concession expiry has since been concluded. There is an exit clause covering SAA should Swissport not be granted a concession after 2018. In respect of the BEE component and accreditation with ACSA, management comment as follows: *"This is noted and it will also be raised with ACSA, so that they can also align their processes for licencing with transformation requirements of SAA."*
Intercompany cargo contract between SAA and Mango	SAA	Mango	R4,6 million (April to Aug 2015)	-	The intercompany transaction between SAA and Mango favours Mango because irrespective of whether or not SAA utilises the blocked space, SAA pays a fixed monthly payment for the space. This transaction does not deliver the optimal contribution to the Group. We calculated that on average, from 1 April 2015 to 31 August 2015, SAAC only utilised 8,75% of the space allocation on Mango flights resulting in a loss.	In 2015 a new type of agreement was concluded which addressed the issues raised in the report. The current agreement is a soft block for which we [SAA] pay Mango only for the space utilised. Because it is soft block space for SAAC is not guaranteed and Mango is free to accept cargo from other airlines if such space is not yet reserved by SAAC. The rates are reviewed annually by the parties in line with market conditions.

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Potential recovery / savings opportunities (cont.)

Service	Entity	Supplier	Potential savings	Explanation/Rationale	Management comments
SAA	KWE	Freight and logistical services	R27,990 (1 June 2014 to 31 August 2014)	Incorrect calculation of annual increase by KWE	Amount has been recovered
SAA	Fuel	Fuel	N/A (unable to quantify)	SAA's fuel contracts (overall) were on a number of occasions extended on a 6 month basis, which led to paying higher differentials compared to what they could have paid if they negotiated new contract terms with existing suppliers Reasons for these 6 month extensions: ▪ Timing of Board meetings/Board approval ▪ Insufficient time to adequately test the market ▪ No Round Robin Board approval is allowed ▪ Including BEE suppliers for domestic fuel supply; however, we understand that there was no BEE accredited fuel supplier in South Africa at the time of our engagement	Agree with EY finding *"The recommendation can however not be implemented until such time that a dedicated BEE jet fuel supplier/manufacturer is established which is capable to supply required volumes at competitive rates.* *The matter of six months contract is a legal matter given the financial situation of the company; SAA cannot enter into lengthy contracts."*
Air Chefs	First Garment	Lease and laundry of staff uniforms	R 25,389.88 (December 2013 to July 2015)	Rate invoiced for the laundry of staff uniforms is higher than the agreed rate (based on our sample of 22 invoices)	Agree with EY finding
			R178,214.73 (December 2013 to July 2015)	Amount for the laundry of napkins in Durban. The cost was allocated to the incorrect account (staff uniforms instead of the JV) and was not recovered from SAA	Agree with EY finding

DD34-DCM-1068



Process efficiencies and effectiveness varies by entity

- Key differences noted between SAA and Mango:
  - Mango generally entered into contracts with service providers. However, instances do exist where Mango extended contracts without testing the market;
  - Despite complying with procurement policy and procedures, SAA suffered delays in finalising contracts, resulting in over spending and paying in excess of contract rates. Savings negotiated are also lost; and
  - Mango actively engaged its service providers and negotiated for better pricing.
- An opportunity exists across the group to share procurement best practices and leverage of economies of scale (e.g. fuel and ground handling). We have not seen any of this potential being pursued. This to be done within the parameters of the Competition Commission requirements.
- Potential benefits may include:
  - Right to renegotiation;
  - Quantity discounts; and
  - Fixing of prices guarding/limiting inflationary and/or importation cost risks.

DD34-DCM-1069



Specific concern - AAR

DD34-DCM-1070



AAR

A number of concerns were identified with AAR:

- AAR identified as possible JV partner during 2015, and possible alternate supplier of component support services rendered by Air France ("AF")
- Draft MoU:
  - Entered into during June 2015
  - Concerns were raised by former employee regarding different versions of the MoU
  - Plausible explanation given by CEO as to different versions
  - CEO mandated by Board to enter into and sign all paperwork
  - Legal opinion obtained approves entering of Non-binding MoU
- Components tender:
  - AAR responded to various RFP's relating to component support, from as early as 2013
  - As at December 2015, they had not been successful
- Concerns with AAR's response to SP451/453:
  - Initial response - AAR would have been successful, yet other risks identified:
    - Penalties
    - Significant low pricing with risk of rate creep
    - Into the lack of AAR understanding into African dynamics

DD34-DCM-1071



AAR

- Board elected to award to AF
- Subsequent to supplier development visit during end September 2015 (team returning 19 Sept), the SAA Technical Board revolved on 22 September to re-engage AAR, due to failed discount negotiations (Despite AF already being awarded the contract on 31 August 2015). It is unclear why these risk mitigating steps were not requested from AAR during the initial adjudication
- SAAT could not provide the supplier visit report authored by the CPO communicating her findings to the CEO

A number of concerns were identified with AAR:

- AAR was sent a letter on 23 September 2015, and requested to provide risk mitigation procedures, and respond by 25 September 2015 (2 days)
- AF was not informed that SAA Technical again approached AAR, or that negotiations were re-opened (despite being awarded)
- AAR responded on 25 September 2015. The letter was deemed not to have addressed the identified risks
- AF was sent a letter on 29 September 2015 informing of the award after citing successful discount negotiation
- With the extension of Amendment 23, AF agreed to a discount of totalling USD400,000 per month for the duration of the Amendment (12 months total USD4,8 million)
- It is our understanding that due to the cost savings targets set, that this negotiation was aimed at achieving further cost reductions from AF

DD34-DCM-1072



AAR

- Other concerns with the proposed BEE structure in SP453 response
  - One of the proposed BEE JV partners raised concern that she received a call shortly before the tender response had to be submitted (exact date not known)
  - During the call, she was "told" who would participate in the BEE venture, and that her company would be used as the vehicle
  - She felt uncomfortable with the manner in which the matter was handled, and informed that she would not participate
  - Her name was however submitted as part of the proposed BEE venture
  - The conversation was apparently recorded. After consulting her legal advisor, she could not make the recording available to EY
  - Same entity which proposed as supplier development on AAR response, also put forward for AF contract. Process driven by CPO

A number of concerns were identified with AAR:

- The structure of the proposed BEE/JV entity is of concern, in light of the issues raised by one of the proposed members
- Company director searches on the proposed entity also raised concerns in that:
  - The registered company name does not correlate to the company registration number provided
  - Some of the proposed members appear not to be involved in the aviation industry, which if correct, may place SAA Technical at risk based on the nature of the components tender, and the risk of AOG (Aircraft on ground) should services not be rendered

DD34-DCM-1073



Path forward

DD34-DCM-1074

The path forward

EY
Building a better working world



Our report identified a number of issues requiring resolution in the sample of contracts reviewed

The objective should always be to prevent, not simply to detect, deficiencies & weaknesses. But you must fully understand the underlying causes in order to do so

The findings also suggest potential deficiencies in components of the procurement and contract management model

The issues found can be multi-dimensional in their root cause

Potential source(s) of each issue

	Contracts not in place	Spend and scope management	Tendering	Invoicing
Leadership & Culture	✓		✓	
Governance	✓	✓	✓	
Organization & people	✓	✓	✓	✓
Process & Policy	✓	✓	✓	✓
Technology & Data	✓	✓		✓



Identify
- Validate Requirements and Perform Engagement Specific Planning

Diagnose
- Understand the current state
- Evaluate the current state
- Generate/prioritize Recommendations and Next Steps

Design
- Agree Approach and Refine Requirements
- Develop Detailed Design
- Finalize Design and Gain Approval

Deliver
- Develop Implementation and Deployment Plans
- Build and Validate Improvements
- Execute Deployment Plan

Sustain
- Confirm operational Effectiveness
- Support Continuous Improvement
- Expand Benefits Across the extended Enterprise

Further analysis is required to fully understand the underlying root causes, so that tangible actions can be developed to eliminate the deficiencies

What is really happening day-to-day on the ground?

- What is the process to approve a vendor? What information is required to verify their credentials?
- How are vendors classified and managed (e.g. strategic partner, preferred vendor, etc.)
- Is there a clear policy on tendering/re-tendering requirements?
- Is there visibility to the population of contracts and expiry dates?
- Are standard T&C's used in all contracts? How much negotiation is allowed?
- Does the Grant of Authority support the timely approval of routine contracts?
- Is the contract duration appropriate?
- How is the receipt of goods and services documented?
- Are vendor invoicing requirements specified in the contract?
- Is there a code of conduct? How is it monitored and enforced?
- Does procurement have the required skills and capacity?
- Are processes & policies followed? How is this monitored?
- How is performance managed?

DD34-DCM-1075



Path forward (cont.)

1. Long overdue contracts should be finalised and entered into thereby realising potential savings going forward, as detailed on slide 34.
2. Conduct an assessment of goods/services procured on a three quotation basis and determine the viability of entering into contracts.
3. In conjunction with KWE, invoice processing to be made more user-friendly. Consider appropriate module within SAP to *inter alia* monitor consolidation of freight.
4. SAA internal audit findings pertaining to poor controls regulating the scrapping process, should be considered and addressed.
5. Pursue potential recovery options detailed on slide 35.
6. Conduct a detailed investigation into the AAR relationship.

DD34-DCM-1076



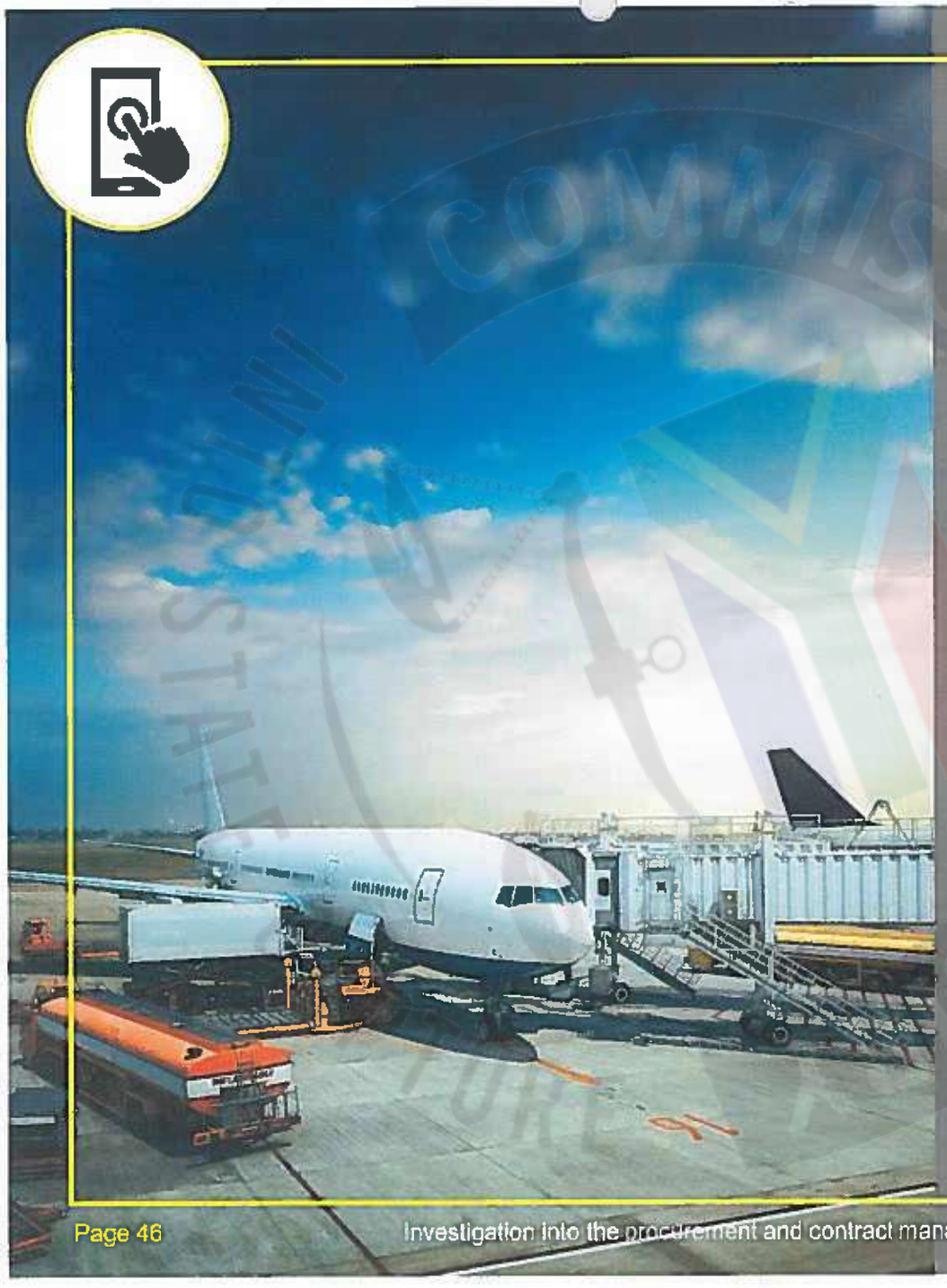
Supplementary matters

DD34-DCM-1077

Supplementary matters

Description	Amount incurred (R) (excl. VAT)	Amount billed (R) (excl. VAT)	Comment
Fees: • Fees per mandate • Disbursements	 1,282,456.00 200,439.64	 1,282,456.00 200,439.64	-
Invoice 1 and 2 total	**1,482,895.64**	**1,482,895.64**	**Payment received**
Additional services: • Additional services • Disbursements	 1,447,771.00 122,349.00	 1,158, 216.80 97,879.20	-
Invoice 3 total	**1,570,120.00**	**1,256,096.00**	**Discount of R314,024 provided** **Payment outstanding**
Engagement close out			**Report close out and presentation as agreed - amount to be billed R283,992.00**
Total	3,053,015.64	2,738,991.64	-

DD34-DCM-1078



EY contact

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Director | Africa Leader |
Fraud Investigation and Dispute Service
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DD34-DCM-1079

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

AFFIDAVIT OF MS. DUDUZILE CYNTHIA MYENI

I, the undersigned,

DUDUZILE CYNTHIA MYENI

do hereby state as follows:

1. I am an adult female and the facts contained in this affidavit are within my own personal knowledge, save where otherwise indicated or stated, and are to the best of my belief both true and correct.

2. The statement is made in response to a notice in terms of Rule 3.3 of the Rules of the above Commission of Inquiry, more particularly in response to the allegations made therein. Any allegations which have been made by Mr. Agrizzi in his statement or evidence against me, which are not specifically dealt with in my statement are denied by myself.

DCM

3. With regard to the allegations contained in paragraph 5.1 of Notice 3.3, I vehemently deny bribes from Bosasa, both as Chairman of JGZF and in my private capacity.

4. I further deny that I received R300,000.00 (Three Hundred Thousand Rand) per month from the Bosasa Group.

5. Meeting requests for any South African citizen would be arranged via his Foundation or through his office, all varied on what the person prefers, it could be a meeting on Sunday or after the Foundation Board Meeting. I deny that I was involved in any deals as alleged, or the Former President was involved in any deals, as referred to.

6. I do not possess a Louis Vuitton handbag which was allegedly filled with cash to the amount of R300,000.00 (Three Hundred Thousand Rand). No such amount of money was ever given to me, as alleged.

7. It is true that I drafted a letter to several companies requesting for donations in any form, or CSI sponsorship for the Former President, Jacob Zuma's birthday. I deny that I merely called Gavin, as alleged on par 5.5.

8. This is disingenuous for Mr. Agrizzi to allege that I had an influence over the Former President Jacob Zuma to affect certain amendments to regulations, which were required to facilitate the Karoo Fracking, I vehemently deny these allegations. The meeting did in fact take place in Nkandla, there was no alleged bag of cash that was handed over to the President and that statement is denied.

DCM

9. I deny that I coordinated a meeting between Former President Zuma, Mr. Watson, Mr. O'Quingley and Ms. Oberholzer.

10. I vehemently deny obtaining important information from Hawks in relation to Bosasa investigations.

11. I deny that had met anyone from the NPA, nor am I aware of the document referred to. I intend to raise this matter in the cross examination. I was not in possession of any document from the NPA, I deny that I shared such a document with Mr. Agrizzi or Mr. Watson, it is indeed a lie. Mr. Agrizzi must explain about this document in the cross examination. I had no reason to get involved in their business.

12. I deny.

13. Mr. Agrizzi and I had only met in Sheraton for the first time, as stated on the allegations of his affidavit, however I was meeting Mr. Watson to request the donation for the Former President's birthday event.

14. I am not aware of Mr. Watson's commitment mentioned to pay R300,000.00 (Three Hundred Thousand Rands) monthly. Therefore, I deny any of that, as anyone donating to the foundation would make use of EFT (Electronic Funds Transfer) or any other formal transfers. I further deny donating a thank you letter.

DCM

DEPONENT

I certify that this affidavit was signed and sworn to before me at Johannesburg, on this the 04 day of March 2019 by the deponent who acknowledged that he knows and understands the contents of this affidavit, has no objection to taking this oath, considers this oath to be binding on his conscience and uttered the following words: *'I swear that the contents of this affidavit are both true and correct, so help me God.'*

COMMISSIONER OF OATHS

Name: Ian Mkhululi Gambu

Address: RB Bay SAPS, No. 5 Rumium Rd

Capacity Captain

SOUTH AFRICAN POLICE SERVICE
COMMUNITY SERVICE CENTRE
2019 -03- 04
RICHARDS BAY
KWAZULU-NATAL

IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

CASE NO: 15996/2017

In the matter between:

ORGANISATION UNDOING TAX ABUSE NPC	**First Plaintiff**
SOUTH AFRICAN AIRWAYS PILOTS ASSOCIATION	**Second Plaintiff**

And

DUDUZILE CYNTHIA MYENI	**First Defendant**
SOUTH AFRICAN AIRWAYS SOC LTD	**Second Defendant**
AIR CHEFS SOC LTD	**Third Defendant**
MINISTER OF FINANCE	**Fourth Defendant**

NOTICE OF MOTION

KINDLY TAKE NOTICE THAT the First Defendant herein intends to make an application to the above Honourable Court on the date to be allocated by the Registrar in the following terms:

1. An order that the matter be postponed to a future date determined by the court.

2. The Plaintiffs are ordered to pay the First Defendant's cost on the attorney and client scale in the event of opposition.

3. Further and or alternative relief.

AND TAKE NOTICE FURTHER THAT the affidavit of **Duduzile Cynthia Myeni** attached herein will be used to support this application.

FURTHER TAKE NOTICE THAT the First Defendant has appointed **Lugisani Mantsha attorneys** C/O **Lucky Thekisho Attorneys** as her attorneys of record.

TAKE NOTICE FURTHER THAT if the Plaintiffs intend to oppose this application, they should serve and file their intention to oppose before 19h00 on the 10 October 2019.

AND FURTHER THAT the Plaintiffs should file their answering affidavit before 9am the 11 October 2019 if any.

Dated at Johannesburg on this the 09th day of October 2019

LUGISANI MANTSHA INCORPORATED
First Defendant's Attorneys
No. 410 Jan Smuts Avenue
Burnside Island
Block 6, First Floor
Craighall, Johannesburg
P O Box 1127
Randburg, 2125
Tel: (011) 781 0099
Fax: (011) 781 0526
Ref: Mr D Mantsha

39^3
info@lugisanimantshaattorneys.co.za
C/O LUCKY THEKISHO ATTORNEYS
Burlington House, 1st Floor
235 Helen Joseph (Church) Street
Pretoria, 0002
Tel: 012 771 2072
Fax: 086 667 4601

TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT, PRETORIA

AND TO: PANDOR ATTORNEYS
First and Second Plaintiffs' Attorneys
15 Peter Place
Bryanston
Tel: 082 551 3784
Email: rashaad@pandorlaw.co.za
C/O LEE ATTORNEYS
51 Elandslaagte Street
Hazelwood
Tel: 082 451 2142
Email: lenelllee@msn.com
Ref: L Lee

AND TO: DYASON INCORPORATED
Second and Third Defendants' Attorneys
134 Mucklenuek Street
Nieuw Muckleneuk
Pretoria
Ref: TP WOOD/NN/MAT85612
Tel: (012) 452 3500
Fax: (012) 452 3554
Email: wood@dyason.co.za

AND TO: THE MINISTER OF FINANCE
Fourth Defendant
40 Church Street
Pretoria

IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

CASE NO: 15996/2017

In the matter between:

ORGANISATION UNDOING TAX ABUSE NPC	**First Plaintiff**
SOUTH AFRICAN AIRWAYS PILOTS ASSOCIATION	**Second Plaintiff**

And

DUDUZILE CYNTHIA MYENI	**First Defendant**
SOUTH AFRICAN AIRWAYS SOC LTD	**Second Defendant**
AIR CHEFS SOC LTD	**Third Defendant**
MINISTER OF FINANCE	**Fourth Defendant**

Fifth Plaintiff

FOUNDING AFFIDAVIT

I the undersigned

DUDZILE CYNTHIA MYENI

do hereby under oath and say the following:

1. I am an adult female and the Former Chairperson of the South African Airways SOC Ltd (SAA), residing at **102 Kolstetkring, Meerensee, Richards Bay.**

COMMISSION OF INQUIRY INTO STATE CAPTURE

2. The facts set out below are, to the best of my knowledge, both true and correct. Save where the contrary is expressed or appears from the context, they lie within my personal knowledge.

3. I so far as I make the submission and draw the conclusion in the affidavit, I do so on the advice or advises of my legal representatives which advice I accept.

PARTIES

4. The First Plaintiff is **ORGANISATION UNDOING TAX ABUSE NPC**, a non-profit company incorporated under the laws of the Republic of South Africa and having its registered office at **318 Oak Avenue, Randburg, Johannesburg.**

5. The Second Plaintiff is **SOUTH AFRICAN AIRWAYS PILOTS' ASSOCIATION**, a branch of the Air Line Pilots' Association of South Africa, which is a registered trade union in terms of section 96 of the Labour Relations Act 66 of 1995, having its principal place of business at **10 Blockhouse Street, Kempton Park, Johannesburg.**

6. The Second Defendant is **SOUTH AFRICAN AIRWAYS SOC LTD**, a state-owned company duly established in terms of company laws of the Republic of South Africa and the South African Airways Act, 2007 ('SAA Act"), having its registered office at **Airways Park, 32 Jones Road, Kempton Park, Johannesburg.**

7. The Third Defendant is **AIR CHEFS SOC LTD**, a state-owned company duly established in terms of the company laws of the Republic of South Africa, having its registered office at **Airways Park, 32 Jones Road, Kempton Park, Johannesburg.**

8. The Fourth Defendant is **MINISTER OF FINANCE**, a member of the National Cabinet who has his principal office at **40 Church Square, Pretoria**. The Minister of Finance is, since 12 December 2014, the Cabinet member responsible for administering and regulating SAA under and in terms of the SAA Act.

PURPOSE OF APPLICATION

9. This is an application for the postponement of court proceedings as set down by the above Honourable Court to a later date as may be deemed appropriate by the court to allow me to resolve the funding of the legal cost of this matter with the insurance which had covered liabilities of second Plaintiff's directors arising inter alia from the work they undertook as directors as it is the case with me in this matter .

10. The application for postponement is in no way intended to cause unnecessary delays to the case but has been occasioned by financial constraints and other circumstances beyond my control which I shall refer to in the latter part of this affidavit.

11. In bringing this application it is my intention to ensure that the court is placed in a proper position to adjudicate the merits of this case having the benefit of my version and defense properly prepared and ventilated through my legal representatives.

12. In this regard, I submit that it is in the interests of justice that my legal representatives who will be assisting me with doing this case should be afforded adequate time to acquaint themselves with all aspects of the case as well as to do whatever they deem necessary in assisting me to conduct my defense.

13. I further submit that I have all times since these legal proceedings were initiated against me, been respectful of and compliant with all the preliminary trial processes that have brought this matter to be ready for trial. The recent changes in my legal representatives have been occasioned by reasons unknown to me , the current legal representatives had arlier withdrew as my attorneys of record due lack of financial cover for my legal fees by the insurance , the said insurance had no problem to cover my legal fees when ENS were my attorneys of record , this situation was not created by me and is beyond my control .

14. I shall not delve into any aspects of the merits of the case but will interpose to state that I believe that the case against me has no merits but I cannot as a lay person competently defend myself and fully rely on legal expertise to defend me in this instance.

BACKGROUND

15. On or around 29 August 2019, my attorney of record received a letter from the First and Second Plainitffs' attorneys requesting that my attorneys should place themselves on record in this matter so that plaintiffs attorneys can provide my attorneys of record with documents regarding this matter, a letter is attached hereto as marked **"DM1"**.

16. The notice of appointment as attorneys of record was then served via email to the First and Second Plaintiffs' representative on the same day, copy of the letter and notice is attached as marked **"DM2"**

17. The First and Second Plaintiffs' representative provided my attorneys of record with some of the pleadings in respect of this matter on the 30 August 2019. I attach hereto a copy of a letter from the Plaintiff attorneys enclosing some of pleadings as marked **"DM3".**

18. On or around the 02 September 2019, my attorneys of record wrote a letter to Willis Towers Watson ("the Insurance") requesting them to continue to cover my legal fees as it was the case when ENS was respresenting, a copy of the letter is attached as marked **"DM4"**.

19. Further, on 02 September 2019, my attorneys of record wrote a letter to the First and Second Plaintiffs' attorneys informing them that given the short period of time left for both pre-trial and trial, it would be impossible for my attorneys to carry on

with both the pre – trial and trial in respect of this matter, I pose here to say that the Plaintiffs' attorneys knew as early as 02 September 2019 that beside the funding problems, it was impossible for my attorneys to properly prepare for trial given the fact that they were appointed on the 29 August 2019 for a trial set down for 07 October 2019. A letter is attached hereto as marked **"DM5".**

20. On or around 04 September 2019, my attorneys of record wrote a follow-up letter to the Insurance in respect of the request for funding this letter like the previous one was never replied to by the insurance, attached hereto as marked **"DM6".**

21. On or around 05 September 2019, the First and Second Plaintiffs' attorneys responded to my letter of the 04 September 2019, what is also worth to note in this letter is its hostile tonality, intimidating me, it is clear in this letter that the First and Second Plaintiffs' attorneys anticipated that this matter will have to be postponed for obvious reasons which are beyond my control, a copy of their letter is attached hereto as marked **"DM7".**

22. My attorneys of record replied a letter dated 05 September 2019 from the First and Second Plaintiffs attorneys, in their reply my attorneys reiterated that they will not be able to proceed with a trial, the said letter is attached hereto as marked **"DM8"**

23. On or around 09 September 2019, my attorneys of record wrote a follow-up letter to the Insurance in respect of the request for funding, needless to say that no response was received, attached hereto as marked **"DM9"** and **"DM9.1"**

24. On or around 16 September 2019, the First and Second Plaintiffs' attorneys replied to my letter of the 06 September 2019, a copy of the said reply is attached hereto as marked **"DM10".**

25. On or around 17 September 2019, my attorneys of record wrote a follow-up letter to the Insurance in respect of the request for funding, attached hereto as marked **"DM11**".

26. On or around the 17 September 2019, my attorneys of record replied to the First and Second Plaintiffs' letter dated 16 September 2019. A copy of the letter is attached hereto as marked **"DM12".**

27. On or around the 19 September 2019, my attorneys of record received a letter from the First and Second plaintiffs ' attorneys regarding the pretrial, a copy of the letter is attached as marked **"DM13"**.

28. And further on the 19 September 2019, my attorneys of record were served with a notice in terms of Rule 37 from the First and Second Plaintiffs' attorneys, a copy of the said notice is attached as marked **"DM14".**

29. My attorneys of the record wrote a letter to First and Second Plaintiffs' attorneys and the honourabl Deputy Judge President in respect of the pretrial, a copy is attached as marked **"DM15"**.

30. On 03 October 2019, my attorneys of record further wrote a follow-up to the Insurance in respect of the request for funding, attached hereto as marked **"DM16"**.

31. My letter for request for funding was forwarded to Seloko Ntombizodwa on the 04 October 2019 to attend to my request for funding. A copy of the email is attached as marked **"DM17"**.

32. A further follow-up letter was sent to the Insurance on the 08 October 2019, till to date my attorney of record has not received any response in respect to the request for funding.

33. Due to non-financial instruction, my attorneys of record had to withdraw as attorneys of record, the notice of withdrawal as attorneys of record was served to the First and Second Plaintiffs' via email on the 20 September 2019, by my attorneys.

34. I was also unable to be present in court on the day the matter was set down for hearing as I had no means to come from Richards Bay to Pretoria. I was fortunate that my attorney and counsel agreed to come to represent me in this application without any undertaking of payment on my part.

35. I wish to reply to Mr. Pandor's affidavit which was given to my attorney in court on the on the 08 October 2019 as follows:

35.1. **Ad paragraph 1 to 3**

Noted.

35.2. **Ad paragraph 4 to 6**

The plaintiffs attorneys should have placed all my correspondences before the honourable judge and the said letter should not have been unilaterally sent to court .

35.3. **Ad paragraph 7**

it is my understanding no competent and professional attorney could have been ready in a matter of two months to run a trial of this magnitude , Mr Mantsha professional to inform his collegue about his difficulty

35.4. **Ad paragraph 8 and 9**

Mr Mantsh had no duty to account to the First and second Plaintiffs attorneys on how he executes instructions from clients.

35.5. **Ad paragraph 10**

I note the contents of this paragraph.

35.6. **Ad paragraph 11 to 1**

I deny the contents of this paragraph, First and Second plaintiffs are laboring under confusion this matters are unrelated .

35.7. **Ad paragraph 11.2 to 11.3**

This is denied, the claim in respect of this matter was not rejected to my knowledge. The claim which was rejected was for the State Capture Commission of Inquiry.

35.8. **Ad paragraph 12 and 13**

I deny the contents of these paragraphs, First and Second Plaintiffs are confused and disgenous about my Insurance claim.

35.9. **Ad paragraph 14**

I deny the contents of this paragraph, maybe Plaintiffs themselves are willfully misleading the court by stating untrue facts in respect of my insurance claim.

35.10. **Ad paragraph 15**

Noted, save to say that I did not have a legal representative and I am still waiting for the outcome of the Insurance claim.

35.11. **Ad paragraph 16 to 17**

This is denied. This is public information that I am unemployed, it is a fact.

35.12. **Ad paragraph 18**

I note the contents of this paragraph.

35.13. **Ad paragraph 19 to 20**

My attorney felt a duty as an officer of the court to inform the court about my situation and that I also informed to express my apology to the court .

35.14. **Ad paragraph 21 to 23**

I deny the contents of this paragraph. I had an objection regarding the hearing of the 08 October 2019, unfortunately, I was not present to speak for myself or being legally represented.

35.15. **Ad paragraph 24**

I am currently unemployed, it is not easy for me to travel from KwaZulu- Natal to Gauteng without any funding.

35.16. **Ad paragraph 25**

This is denied, the claim in this matter is not rejected.

35.17. **Ad paragraph 26**

I deny the contents of this paragraph. I do not earn any income from the entities listed since 2009. I have been resigning, deregistering myself on any entities. I personally wrote to Companies and Intellectual Property Commission ("the CIPC") requesting to remove my name, I have gone through the list as attached and made a remark next to each entity as follows:

35.17.1 Jacob Zuma Foundation (reg no. 2008/021836/08) – no income

35.17.2 ILember Management Development (reg no.2006/032665/07) – term ended.

35.17.3 Air Chefs (reg no. 1990/006277/30)– term ended.

35.17.4 South African African Airways (reg no. 1997/022444/30) – term ended.

35.17.5 Trade and Investment KwaZulu-Natal (reg no. 1998/011946/08) - term ended.

35.17.6 Maxitrade 10 General Trading (reg no. 2003/015239/07) – I resigned in 2007 and Cipro had never deactivitate my name.

35.17.7 Siyabonga Trading 0014 (reg no. 2004/019861/07) – I resigned in 2007 and Cipro had never deactivitate my name.

35.17.8 Corporate Citizen Telecoms (reg no. 2007/012589/07) - I resigned in 2007 and Cipro had never deactivitate my name.

35.17.9 Corporate Citizn Telecoms 3 (reg no. 2007/025194/07) - I resigned in 2007 and Cipro had nenver deactivitate my name.

35.17.10 Lombicor Thirdteen (reg no: 1997/037054/23) - I resigned in 2007 and Cipro had never deactivitate my name.

35.17.11 Mitrek 5, (reg no. 2002/080762/23) - I resigned in 2007 and Cipro had never deactivitate my name.

35.17.12 Hope Fountain Investment 54 (reg no. 2003/054993/23) - I resigned in 2007 and CIPC had never deactivitate my name.

35.17.13 Phephangesihle Investments (reg no. 2003/057397/23) - I resigned in 2007 and Cipro had never deactivitate my name.

35.17.14 Thalente Town Lodge (reg No. 2005/185437/23) - I resigned in 2007 and Cipro had never deactivitate my name.

35.17.15 Mlodi Civil Construction (reg no. 2005/033546/07) - I resigned in 2007 and Cipro had never deactivitate my name.

35.17.16 Maydeo Nineteen (reg no. 1998/041179/23) - I resigned in 2007 and Cipro had never deactivitate my name.

PREJUDICE

36. I submit that there is no prejudice to OUTA or any of the other parties to the case if the matter is postponed. I currently do not hold any position of directorship that is of interest to them such that a delay in the hearing of this matter would cause them prejudice.

37. There is also no prejudice to any public institution or the public interest if this matter is postponed.

38. I, however, stand to be severely prejudiced if this matter is not postponed in that my legal representatives will not be in a position to conduct a proper defense or enable me to lead proper evidence in the case.

39. I currently have been prejudiced by negative media reports that have over time slandered me and impugned my reputation both as a person and black businesswoman in the country.

40. I deem the application to have me declared me a delinquent director most serious as it could completely destroy my ability to make a living and support my family and cause me further financial ruin.

LEGAL PRINCIPLES

41. I am advised that the conducting of a trial without me properly represented would have the effect of violating the *audi alterem* partem rule which is most crucial in all legal proceedings.

42. I am also advised that the right to a fair public hearing is Constitutionally enshrined in the Bill of Rights under Section 34 of the Constitution of The Republic of South Africa Act 108 of 1996. The court in the circumstances has to give effect to the imperatives of this section in ensuring that the matter against me is adjudicated fairly.

43. In the case of **Magistrate M Pangarker v Botha** the high court upheld the application. It found that the magistrate had implicitly refused to grant a postponement in her email response to Mr. Derris. It concluded that the magistrate should have *mero motu* postponed the matter to enable Mr. Botha to obtain a legal representative of his own choice and that failure to do so resulted in him not getting a fair trial. It further held that it was grossly irregular for the magistrate simply to decide to proceed with the matter without considering the issue of the postponement and that it was unreasonable to deny Mr. Derris an opportunity to facilitate a postponement of the matter. The high court thus

concluded that the magistrate had committed a gross irregularity by not postponing the matter and refusing Mr. Botha a legal representative of his own choice. It accordingly set aside the proceedings. The high court ordered that the divorce action and in particular the question relating to the claim for forfeiture of benefits be dealt with afresh before a different magistrate. The magistrate and Mr. Botha were ordered to pay Mrs. Botha's costs.

44. The Constitutional Court held in **Lekolwane & Another v Minister of Justice and Constitutional Development** that the postponement of a matter set down for hearing on a particular date cannot be claimed as a right. An applicant for a postponement seeks an indulgence from the court. A postponement will not be granted unless this court is satisfied that it is in the interests of justice to do so. In this respect the application must ordinarily show that there is good cause for the postponement, whether a postponement will be granted is therefore at the discretion of the court. In exercising that discretion, this Court takes into account a number of factors, including (but not limited to) whether the application has been timeously made, whether the explanation given by the applicant for postponement is full and satisfactory, whether there is prejudice to any of the parties, whether the application is opposed and the broader public interest.

WHEREFORE I pray for an order in terms of the notice of motion.

56
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WHEREFORE I pray for an order in terms of the notice of motion.

DEPONENT

I HEREBY CERTIFY that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn before me at Durban on this the 09 day of October 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.

SOUTH AFRICAN POLICE SERVICE
COMMUNITY SERVICE CENTRE
2019 -10- 09
DURBAN NORTH
KWAZULU-NATAL

[illegible]-1
SGT
M.A. DE[illegible]

COMMISSIONER OF OATHS

ADDRESS: 04 Normandy Dbn North

"DM" 57 21

Pandor Attorneys

Date: 29 August 2019

Our Reference: R Pandor/OUTA

Your Reference: D Manstha

LUGISANI MANTSHA ATTORNEYS

Email: info@lugisanimantshaattorneys.co.za

Dear Sir / Madam

ORGANISATION UNDOING TAX ABUSE NPC & ANOTHER V DC MYENI & OTHERS: CASE NO 15996/2017

We refer to the above matter and to the telephonic conversation with our Mr. Pandor on 29 August 2019.

We confirm that our Mr. Pandor was telephonically contacted by Ms. Myeni on 29 August 2019 who confirmed that your offices act on her behalf in the above matter.

15 Peter Place, Bryanston
Telephone: 010 007 1469
Mobile: 082 551 3784
Fax: 086 595 4952
Email: info@pandorlaw.co.za

In association with Fox & Barratt Attorneys

Your offices contacted our Mr. Pandor approximately an hour later confirming that you indeed act on Ms. Myeni's behalf and requested that we email all relevant documentation to your offices to the email address cited hereon.

Mr. Pandor responded by advising that he would share all relevant documentation with your offices upon receipt of your notice of appointment of attorneys of record which we are yet to receive.

Kindly as a matter of urgency, provide our offices with your notice of appointment of attorneys of record particularly since we intend to serve a pretrial notice on your alleged client for 5 September 2019.

The trial herein is set down for 7 October 2019 so we trust that your offices will act with the necessary haste seeing that there is just about sufficient time for your offices to adequately prepare for trial.

Yours faithfully



PANDOR

15 Peter Place, Bryanston
Telephone: 010 007 1469
Mobile: 082 551 3784
Fax: 086 595 4952
Email: info@pandorlaw.co.za

In association with Fox & Barratt Attorneys

59
23

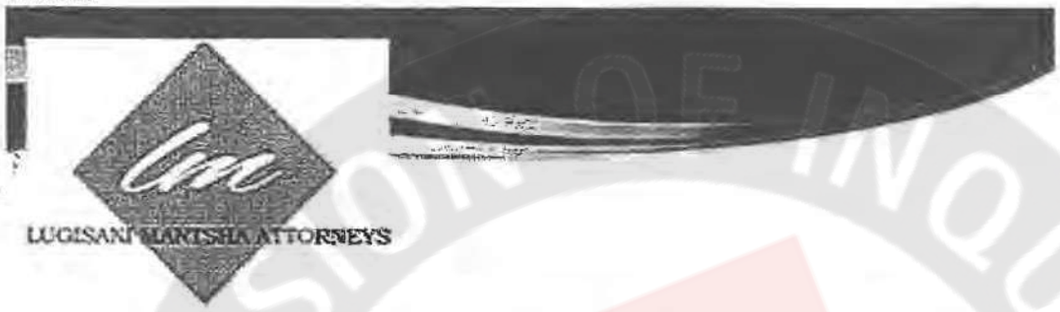
info@lugisanimantshaattorneys.co.za

From: info@lugisanimantshaattorneys.co.za
Sent: Thursday, 29 August 2019 16:46
To: 'rashaad@pandorlaw.co.za'; 'david@pandorlaw.co.za'
Subject: ORGANISATION UNDOING TAX ABUSE NPC & ANOTHER V DC MYENI & OTHERS: CASE NO 15996/2017
Attachments: Letter to Pandor Attorneys 29 Aug 2019_.pdf; 20190829174258253.pdf

Dear Sir,

Attached herewith please find a letter for your attention.

Kind regards,
Yvonne



info@lugisanimantshaattorneys.co.za 011 781 0099 www.lugisanimantshaattorneys.co.za
418 Jan Smuts Ave Burnside Island Office Park Block 5

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LUGISANI MANTSHA ATTORNEYS

First floor | Burnside Island | Block 6 | 410 Jan Smuts Ave | Craighall | Johannesburg
Tel: 011 781 0099 | Fax: 011 781 0526 | e-mail: info@lugisanimantshaattorneys.co.za |
Box 1127 | Randburg | 2125 |

Our Ref: Mr D Mantsha

Your Ref: R Pandor/OUTA
Att: Mr R Pandor
Pandor Attorneys
Per email: rashaad@pandorlaw.co.za

Date: 29 August 2019

PRIVATE AND CONFIDENTIAL

Dear Sir,

RE: ORGANISATION UNDOING TAX ABUSE NPC & ANOTHER V DC MYENI & OTHERS: CASE NO: 15996/2017

We refer to the above matter and enclose the notice of appointment as attorneys of record for your attention.

Yours Faithfully

Mr. L D Mantsha

Transmitted electronically without signature

("DM2" 25
61
"DMJ-1")

IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

CASE NO: 15996/2017

In the matter between: -

ORGANISATION UNDOING TAX ABUSE NPC	**First Plaintiff**
SOUTH AFRICAN AIRWAYS PILOTS ASSOCIATION	**Second Plaintiff**

and

DUDUZILE CYNTHIA MYENI	**First Defendant**
SOUTH AFRICAN AIRWAYS SOC LTD	**Second Defendant**
AIR CHEFS SOC LTD	**Third Defendant**
MINISTER OF FINANCE	**Fourth Defendant**

NOTICE OF APPOINTMENT AS ATTORNEYS OF RECORD

KINDLY TAKE NOTICE THAT the First Defendant has appointed **Lugisani Mantsha Attorneys** as her attorneys of record.

AND TAKE NOTICE FURTHER THAT the First Defendant shall receive all notices, processes and pleadings in this matter in the address mentioned herein below.

Dated at **JOHANNESBURG** on this the 29th day of **August** 2019.

LUGISANI MANTSHA INCORPORATED
First Defendant's Attorneys
No. 410 Jan Smuts Avenue
Burnside Island
Block 6, First Floor
Craighall, Johannesburg
P O Box 1127
Randburg, 2125
Tel: (011) 781 0099
Fax: (011) 781 0526
Ref: Mr D Mantsha
info@lugisanimantshaattorneys.co.za
C/O LUCKY THEKISHO ATTORNEYS
Burlington House, 1st Floor
235 Helen Joseph (Church) Street
Pretoria, 0002
Tel: 012 771 2072
Fax: 086 667 4601

TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT, PRETORIA

AND TO: DYASON INCORPORATED
Second and Third Defendant's Attorneys
134 Mucklenuek Street
Nieuw Muckleneuk
Pretoria
Ref: TP WOOD/NN/MAT85612
Tel: (012) 452 3500
Fax: (012) 452 3554
Email: wood@dyason.co.za

AND TO: **THE MINISTER OF FINANCE**
Fourth Respondent
40 Church Street
Pretoria

COMMISSION OF INQUIRY INTO STATE CAPTURE

"D64" 28

Pandor Attorneys

Date: 29 August 2019

Our Reference: R Pandor/OUTA

Your Reference: D Manstha

LUGISANI MANTSHA ATTORNEYS

Email: info@lugisanimantshaattorneys.co.za

Dear Sir / Madam

ORGANISATION UNDOING TAX ABUSE NPC & ANOTHER V DC MYENI & OTHERS: CASE NO 15996/2017

We refer to the above matter and to your letter of 29 August 2019 enclosing your notice of appointment of attorneys of record for which we thank you.

We enclose herewith copies of the pleadings herein as well as our client's discovery affidavit.

15 Peter Place, Bryanston
Telephone: 010 007 1469
Mobile: 082 551 3784
Fax: 086 595 4952
Email: info@pandorlaw.co.za

In association with Fox & Barratt Attorneys

COMMISSION OF INQUIRY INTO STATE CAPTURE

We had also arranged for the following notices to be served on your client at her residential address in Richards Bay which is no longer necessary in light of your offices aforementioned notice. We accordingly herewith serve the following:

1. Notice of set down for trial despite such notice having been served on your client's erstwhile attorneys of record on 12 March 2018. A copy of that notice of set down is attached for ease of reference;

2. Notice of pretrial conference which we planned to hold on 5 September 2019 and should your schedule accommodate, kindly confirm if same may still be held as planned. If your schedule does not permit, kindly provide ourselves with three dates on which same be held.

   As you are aware, the obligation to conduct a pretrial conference lies on both parties and should be conducted six weeks prior to trial which is at this very stage. We accordingly request that your offices avail yourselves for a pretrial conference to be held as a matter of extreme urgency.

3. Our client's supplementary discovery affidavit.

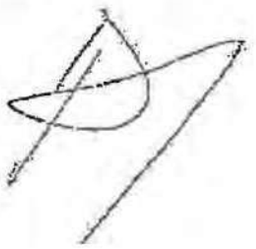
The discovered documents and various trial bundles can be discussed at the pretrial conference which, subject to your response, we anticipate will be held as a matter of urgency.

Should you require anything else please advise accordingly.

15 Peter Place, Bryanston
Telephone: 010 007 1469
Mobile: 082 551 3784
Fax: 086 595 4952
Email: info@pandorlaw.co.za

In association with Fox & Barratt Attorneys

Yours faithfully



PANDOR

15 Peter Place, Bryanston
Telephone: 010 007 1469
Mobile: 082 551 3784
Fax: 086 595 4952
Email: info@pandorlaw.co.za

In association with Fox & Barratt Attorneys

31

67

info@lugisanimantshaattorneys.co.za

From: info@lugisanimantshaattorneys.co.za
Sent: Monday, 02 September 2019 11:37
To: 'Tokelo.Mabela@WillisTowersWatson.com'
Subject: ORGANISATION UNDOING TAX ABUDE NPC & ANOTHER V DUDUZILE CYNTHIA MYENI & OTHERS: CASE NO: 15996/2017 - REQUEST FOR FUNDING
Attachments: Ms Myeni letter to Willis Towers Watson 02 September 2019.pdf; Notice of appointment as attorneys of record .pdf

Importance: High

Dear Sir/Madam,

Attached herewith please find a letter for your urgent attention.

Kindly acknowledge receipt of this email.

Kind regards,
Yvonne

LUGISANI MANTSHA ATTORNEYS

info@lugisanimantshaattorneys.co.za 011 761 0299 www.lugisanimantshaattorneys.co.za

410 Jan Smuts Ave Bernside Island Office Park Block 5

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COMMISSION OF INQUIRY INTO STATE CAPTURE

LUGISANI [illegible] ATTORNEYS

First floor | Burnside Island | Block 6 | 410 Jan Smuts Ave | Craighall | Johannesburg
Tel: 011 781 0099 | Fax: 011 781 0526 | e-mail: Info@lugisanimantshaattorneys.co.za |
Box 1127 | Randburg | 2125 |

Our Ref: Mr. D Mantsha LM0288/19/DM

Att: Mr Tokelo Mabele
Director and Officer of Liability Insurance
Willis Towers Watson
Per email: Tokelo.Mabela@WillisTowersWatson.com

Date: 02 September 2019

PRIVATE AND CONFIDENTIAL

"URGENT"

Dear Sir/Madam,

RE: ORGANISATION UNDOING TAX ABUSE NPC & ANOTHER V DUDUZILE CYNTHIA MYENI & OTHERS: CASE NO: 15996/2017

REQUEST FOR FUNDING

1. We refer to the above matter and enclose our notice of appointment as attorneys of record in this matter.

2. We are instructed from the client to request that your office covers her legal fees as you have been throughout this matter, given the urgency of the matter, we request your reply.

   We record our thanks in anticipating.

Yours Faithfully

Mr. L.D. Mantsha
Transmitted electronically without signature

COMMISSION OF INQUIRY INTO STATE CAPTURE

33

69

info@lugisanimantshaattorneys.co.za

From: info@lugisanimantshaattorneys.co.za
Sent: Monday, 02 September 2019 11:08
To: 'david@pandorlaw.co.za'; 'rashaad@pandorlaw.co.za'
Cc: 'RNPhohu@judiciary.org.za'
Subject: ORGANISATION UNDOING TAX ABUDE NPC & ANOTHER V DC MYENI & OTHERS: CASE NO: 15996/2017
Attachments: Letter to Pandor Attorneys 02 SEP 2019.pdf

Dear Sir,

Attached herewith please find a letter for your attention.

Kind regards,
Yvonne



LUGISANI MANTSHA ATTORNEYS

info@lugisanimantshaattorneys.co.za 011 791 6092 www.lugisanimantshaattorneys.co.za

410 Jan Smuts Ave Suninda (Inland Office Park Block E

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LUGISANI MANTSHA ATTORNEYS

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Tel: 011 781 0099 | Fax: 011 781 0526 | e-mail: Info@lugisanimantshaattorneys.co.za |
Box 1127 | Randburg | 2125 |

Our Ref: Mr D Mantsha

Your Ref: R Pandor/OUTA
Att: Mr R Pandor
Pandor Attorneys
Per email: rashaad@pandorlaw.co.za

Date: 02 September 2019

PRIVATE AND CONFIDENTIAL

"URGENT"

Dear Sir,

RE: ORGANISATION UNDOING TAX ABUSE NPC & ANOTHER V DC MYENI & OTHERS: CASE NO: 15996/2017

1. We refer to the above matter and record our thanks to you for forwarding the pleadings to us on 30 August 2019.

2. At the onset we wish to place it on record that we will be unable to attend a pre-trial conference as planned and the hearing of the matter, on the following reasons:-

   2.1. We have just received the pleadings from your office on 30 August 2019, after we have placed ourselves on record on 29 August 2019.

   2.2. We have not consultated with the client, of which a consultation is planened during the course of this week.

2.3. We still have to obtain financial instructions to brief senior and junior counsel, who must thereafter engage in the preparation of this matter .

3. It is therefore with respect, impossible that we will be in a position to proceed with either the pre-trial conference or the trial itself on the dates set down already. We will be in a position to discuss possible dates thereafter.

Yours Faithfully

Mr. L D Mantsha

Transmitted electronically without signature

CC: Mr. A P Ledwaba: Deputy Judge President
High Court of South Africa
Gauteng Division, Pretoria
email: RNPhodu@judiciary.org.za

"DM6"

72 36

info@lugisanimantshaattorneys.co.za

From:	info@lugisanimantshaattorneys.co.za
Sent:	Wednesday, 04 September 2019 10:48
To:	'Tokelo.Mabela@WillisTowersWatson.com'
Subject:	ORGANISATION UNDOING TAX ABUDE NPC & ANOTHER V DUDUZILE CYNTHIA MYENI & OTHERS: CASE NO: 15996/2017 - REQUEST FOR FUNDING
Attachments:	Ms Myeni letter to Willis Towers Watson 04 SEP 2019.pdf
Importance:	High

Dear Sir/Madam,

Attached please find a letter for your urgent attention.

Kindly acknowledge receipt hereof.

Kind regards,
Yvonne

LUGISANI MANTSHA ATTORNEYS

info@lugisanimantshaattorneys.co.za 011 791 0099 www.lugisanimantshaattorneys.co.za

410 Jan Smuts Ave Bamakia Island Cellus Park Block 6

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LUGISANI [illegible] ATTORNEYS

First floor | Burnside Island | Block 6 | 410 Jan Smuts Ave | Craighall | Johannesburg
Tel: 011 781 0099 | Fax: 011 781 0526 | e-mail: Info@lugisanimantshaattorneys.co.za |
Box 1127 | Randburg | 2125 |

Our Ref: Mr. D Mantsha LM0288/19/DM

Att: Mr Tokelo Mabele
Director and Officer of Liability Insurance
Willis Towers Watson
Per email: Tokelo.Mabela@WillisTowersWatson.com

Date: 04 September 2019

PRIVATE AND CONFIDENTIAL

"URGENT"

Dear Sir/Madam,

RE: ORGANISATION UNDOING TAX ABUSE NPC & ANOTHER V DUDUZILE CYNTHIA MYENI & OTHERS: CASE NO: 15996/2017

REQUEST FOR FUNDING

We refer to the above matter and our letter dated 02 September 2019 and request you to provide us with an update report.

We record our thanks in anticipation.

Yours Faithfully

Mr. L.D. Mantsha
Transmitted electronically without signature

"DN74" 38

Pandor Attorneys

Date: 5 September 2019

Our Reference: R Pandor/OUTA

Your Reference: D Manstha

LUGISANI MANTSHA ATTORNEYS

Email: info@lugisanimantshaattorneys.co.za

CC: Ms. Esther Rikhotso
Assistant to Judge JW Louw

Email: ERikhotso@judiciary.org.za

CC: Ms. Nancy Phohu
Office of the Deputy Judge President

Email: RNPhohu@judiciary.org.za

15 Peter Place, Bryanston
Telephone: 010 007 1469
Mobile: 082 551 3784
Fax: 086 595 4952
Email: info@pandorlaw.co.za

In association with Fox & Barratt Attorneys

Dear Sir

ORGANISATION UNDOING TAX ABUSE NPC & ANOTHER V DC MYENI & OTHERS: CASE NO 15996/2017

We refer to the above matter and to your letter of 2 September 2019.

1. Ad Paragraph 2

   We note that your offices are unable to attend the pretrial conference which was scheduled for today, 5 September 2019.

   We also note that you planned to consult your client during the course of this week. Please advise if you have already done so and if not whether you will indeed do so by today or tomorrow.

   Please also provide ourselves with dates on which you will be able to conduct a pretrial conference as a matter of urgency since the obligation lies on both parties to hold same.

2. Ad Paragraph 3

   Whilst we note your allegation that you would be unable to engage in a pretrial conference today, we disagree that it is impossible to be ready for trial on 7 October 2019 especially in light of your client's bare denials contained in her plea.

   In this regard we place the following on record:

15 Peter Place, Bryanston
Telephone: 010 007 1469
Mobile: 082 551 3784
Fax: 086 595 4952
Email: info@pandorlaw.co.za

In association with Fox & Barratt Attorneys

2.1 Your client's erstwhile attorneys of records, Messrs ENS Attorneys withdrew as your client's attorneys of record on 7 June 2019.

2.2 Your client was accordingly required to provide an address for service of all pleadings by no later than 24 June 2019 which she failed to do.

2.3 As a consequence of her failure, we had no alternative but to trace your client and managed to obtain her contact details on 29 July 2019 when Mr Pandor of our offices telephonically contacted her.

2.4 Your client was adamant that she was unemployed (despite being an active director in three companies) and had no source of income to appoint a lawyer. We advised your client to approach legal aid if that were indeed the case but both our offices are well aware that she would not qualify for it.

She did advise that she would in any event contact a colleague of hers who would act on her behalf who would in turn contact our offices. This too never happened.

Your client also advised that she has no active email address for any correspondence to be directed to her.

2.5 On 31 July 2019, we followed up with your client at which stage she advised she was "*working on it*".

15 Peter Place, Bryanston
Telephone: 010 007 1469
Mobile: 082 551 3784
Fax: 086 595 4952
Email: info@pandorlaw.co.za

In association with Fox & Barratt Attorneys

2.6 On 13 August 2019 after no response from your client or her alleged representative, we advised your client that we would continue unabated towards trial preparation. Your client did not respond.

2.7 On 28 August 2019, we advised your client that we had still not received a response from her or her alleged representative and that we would be informing the case manager accordingly.

2.8 She then responded by providing your Mr. Manstha's mobile contact details and advised that Mr. Manstha would attend to us.

3 Your client has been well aware of the trial date herein for more than a year and has delayed you're appointment by three months with no justification for such a delay. It is clear that your client misrepresented her income situation or alleged lack thereof seeing that your offices have now been appointed and intend to brief various counsel herein.

4 Whilst your offices may find itself in a difficult, but not impossible situation, such difficulty is a result of your client's conduct and hers alone. We have at all stages advised that we shall continue with the necessary trial preparation and have gone well beyond normal measures to engage your client and prompt her to obtain legal representation in the three months in which she chose not to engage your offices.

5 Insofar as your allegation that it will be impossible to be ready for trial, we fail to understand how your offices can come to such a conclusion when you have allegedly not been privy to any pleadings or consulted your client. We must then accept your allegation as baseless and simply an attempt to seek a postponement.

15 Peter Place, Bryanston
Telephone: 010 007 1469
Mobile: 082 551 3784
Fax: 086 595 4952
Email: info@pandorlaw.co.za

In association with Fox & Barratt Attorneys

6 Should you intend to do so, we expect a timeous substantive application for postponement along with a tender for costs. Notwithstanding the manner in which your client may seek a postponement, we shall oppose same.

7 We reiterate that we shall continue to prepare for trial and request that your offices provide ourselves with three alternative dates on which a pretrial conference may be held. Should we not hear from your offices by close of business on Monday, 7 September 2019, we shall schedule same unilaterally.

8 All our clients' rights remain reserved.

Yours faithfully

PANDOR

15 Peter Place, Bryanston
Telephone: 010 007 1469
Mobile: 082 551 3784
Fax: 086 595 4952
Email: info@pandorlaw.co.za

In association with Fox & Barratt Attorneys

" DD18 " 79 43

info@lugisanimantshaattorneys.co.za

From:	info@lugisanimantshaattorneys.co.za
Sent:	Friday, 06 September 2019 17:39
To:	'rashaad@pandorlaw.co.za'; 'david@pandorlaw.co.za'
Subject:	ORGANISATION UNDOING TAX ABUDE NPC & ANOTHER V DC MYENI & OTHERS: CASE NO: 15996/2017
Attachments:	Letter to Pandor Attorneys 06 September 2019.pdf

Dear Sir/Madam,

Please find attached hereto a letter for your attention.

Kindly acknowledge receipt hereof.

Kind regards,
Yvonne

LUGISANI MANTSHA ATTORNEYS

info@lugisanimantshaattorneys.co.za 011 781 0099 www.lugisanimantshaattorneys.co.za

410 Jan Smuts Ave Dunkeld West Office Park Block 6

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LUGISANI MANTSHA ATTORNEYS

First floor | Burnside Island | Block 6 | 410 Jan Smuts Ave | Craighall | Johannesburg
Tel: 011 781 0099 | Fax: 011 781 0526 | e-mail: info@lugisanimantshaattorneys.co.za |
Box 1127 | Randburg | 2125 |

Our Ref: Mr D Mantsha

Your Ref: R Pandor/OUTA
Att: Mr R Pandor
Pandor Attorneys
Per email: rashaad@pandorlaw.co.za

Date: 06 September 2019

PRIVATE AND CONFIDENTIAL

"URGENT"

Dear Sir,

RE: ORGANISATION UNDOING TAX ABUSE NPC & ANOTHER V DC MYENI & OTHERS: CASE NO: 15996/2017

1. We refer to the above matter and your letter dated the 05 September 2019.

2. We appreciate your client's concerns in respect of the history of the matter and the fact that your client want the matter to proceed to trial as set down.

3. As you have correctly pointed out that our client's erstwhile attorneys withdrew as attorneys of record, their withdrawal was not caused by our client and she had no control over their decision in that regards.

4. Our client is entitled to a proper legal representation, and on the other hand we are required as her legal representative to have a proper preparation of the matter as to discharge our professional duty to the court and the client.

5. We have indicated that we will be meeting client for a consultation and to obtain financial instructions, this meeting could not take place this week and will only take place next week. In this regards, we shall inform you as soon as we have obtained such and have briefted junior and senior counsel.

6. It is premature for us to even suggest a pre trial dates at this stage.

7. We reiterate our position that we will not be able to proceed with the trial as set down.

Yours Faithfully

Mr. L D Mantsha

Transmitted electronically without signature

46 79C

info@lugisanimantshaattorneys.co.za

From: info@lugisanimantshaattorneys.co.za
Sent: Monday, 09 September 2019 09:54
To: 'Tokelo.Mabela@WillisTowersWatson.com'
Subject: ORGANISATION UNDOING TAX ABUDE NPC & ANOTHER V DUDUZILE CYNTHIA MYENI & OTHERS: CASE NO: 15996/2017 - REQUEST FOR FUNDING
Attachments: Ms Myeni letter to South African Airways 09 SEP 2019.pdf

Importance: High

Dear Sir/Madam,

Please find attached hereto a letter for your urgent attention.

Kindly acknowledge receipt of this email.

Kind regards,
Yvonne

LUGISANI MANTSHA ATTORNEYS

info@lugisanimantshaattorneys.co.za 011 781 0099 www.lugisanimantshaattorneys.co.za

4 Nelson Mandela Ave Bramley Island Office Park Block 6

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79D 47

LUGISANI MANTSHA ATTORNEYS

First floor | Burnside Island | Block 6 | 410 Jan Smuts Ave | Craighall | Johannesburg
Tel: 011 781 0099 | Fax: 011 781 0526 | e-mail: info@lugisanimantshaattorneys.co.za |
Box 1127 | Randburg | 2125 |

Our Ref: Mr. D Mantsha LM0288/19/DM

Att: Mr Tokelo Mabele
Director and Officer of Liability Insurance
Willis Towers Watson
Per email: Tokelo.Mabela@WillisTowersWatson.com

Date: 09 September 2019

PRIVATE AND CONFIDENTIAL

"URGENT"

Dear Sir/Madam,

RE: ORGANISATION UNDOING TAX ABUSE NPC & ANOTHER V DUDUZILE CYNTHIA MYENI & OTHERS: CASE NO: 15996/2017

REQUEST FOR FUNDING

We refer to the above matter and request you to provide us with an update report.

We record our thanks in anticipation.

Yours Faithfully

Mr. L.D. Mantsha
Transmitted electronically without signature

79E 19.1

48

info@lugisanimantshaattorneys.co.za

From: info@lugisanimantshaattorneys.co.za
Sent: Monday, 09 September 2019 16:24
To: 'Tokelo.Mabela@WillisTowersWatson.com'
Cc: 'KeitumetseMoreosele@flysaa.com'
Subject: ORGANISATION UNDOING TAX ABUSE NPC & ANOTHER V DUDUZILE CYNTHIA MYENI & OTHERS: CASE NO: 15996/2017
Attachments: Ms Myeni letter to Willis Towers Watson 09 SEP 2019.pdf; Myeni - Notice of Set Down (30.08.2019).pdf

Importance: High

Dear Sir/Madam,

Please find attached hereto a letter for your urgent attention.

Kindly acknowledge receipt hereof.

Kind regards,
Yvonne

LUGISANI MANTSHA ATTORNEYS

info@lugisanimantshaattorneys.co.za 011 787 0059 www.lugisanimantshaattorneys.co.za
419 Jan Smuts Ave Dunkeld Island Office Park Block 6

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COMMISSION OF INQUIRY INTO STATE CAPTURE

LUGISANI MANTSHA ATTORNEYS

First floor | Burnside Island | Block 6 | 410 Jan Smuts Ave | Craighall | Johannesburg
Tel: 011 781 0099 | Fax: 011 781 0526 | e-mail: info@lugisanimantshaattorneys.co.za |
Box 1127 | Randburg | 2125 |

Our Ref: Mr. D Mantsha LM0288/19/DM

Att: Mr Tokelo Mabele
Director and Officer of Liability Insurance
Willis Towers Watson
Per email: Tokelo.Mabela@WillisTowersWatson.com

Date: 09 September 2019

PRIVATE AND CONFIDENTIAL

"URGENT"

Dear Sir/Madam,

RE: ORGANISATION UNDOING TAX ABUSE NPC & ANOTHER V DUDUZILE CYNTHIA MYENI & OTHERS: CASE NO: 15996/2017

REQUEST FOR FUNDING

1. We refer to the above matter and enclose the notice of set down for the above matter.

2. The attorneys who were acting for the former Chairperson has withdrawn and as a result, we are appointed as attorneys of record. We require your urgent confirmation that the former Chairperson is covered by the director liability insurance in respect of the legal fees.

We record our thanks in anticipation.

Yours Faithfully

Mr. L.D. Mantsha
Transmitted electronically without signature

79G "DM10"

50

Pandor Attorneys

Date: 16 September 2019

Our Reference: R Pandor/OUTA

Your Reference: D Manstha

LUGISANI MANTSHA ATTORNEYS

Email: info@lugisanimantshaattorneys.co.za

CC: Ms. Esther Rikhotso
Assistant to Judge JW Louw

Email: ERikhotso@judiciary.org.za

CC: Ms. Nancy Phohu
Office of the Deputy Judge President

Email: RNPhohu@judiciary.org.za

15 Peter Place, Bryanston
Telephone: 010 007 1469
Mobile: 082 551 3784
Fax: 086 595 4952
Email: info@pandorlaw.co.za

In association with Fox & Barratt Attorneys

79H 51

Dear Sir

ORGANISATION UNDOING TAX ABUSE NPC & ANOTHER V DC MYENI & OTHERS: CASE NO 15996/2017

We refer to the above matter and to your letter of 6 September 2019.

Your offices have been on record since 29 August 2019 and we trust that you have at this stage consulted your client.

Kindly advise who your counsel is in the matter in order for our respective counsel to liaise with each other.

Should you not have counsel engaged at this stage and persist in seeking a postponement as you have indicated, we remind you that you are to launch a substantive application for postponement along with a tender for costs.

We await your urgent reply.

All our clients' rights remain reserved.

Yours faithfully



PANDOR

15 Peter Place, Bryanston
Telephone: 010 007 1469
Mobile: 082 551 3784
Fax: 086 595 4952
Email: info@pandorlaw.co.za

In association with Fox & Barratt Attorneys

791 52

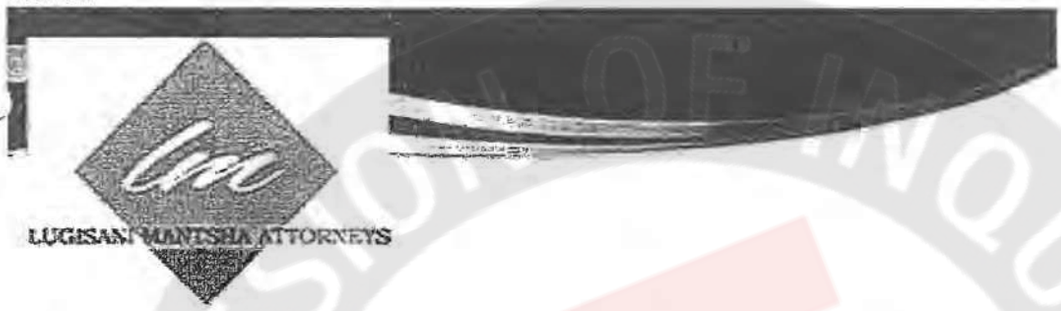
info@lugisanimantshaattorneys.co.za

From: info@lugisanimantshaattorneys.co.za
Sent: Tuesday, 17 September 2019 09:59
To: 'Tokelo.Mabela@WillisTowersWatson.com'
Cc: 'KeitumetseMoreosele@flysaa.com'
Subject: ORGANISATION UNDOING TAX ABUSE NPC & ANOTHER V DUDUZILE CYNTHIA MYENI & OTHERS: CASE NO: 15996/2017
Attachments: Ms Myeni letter to Willis Towers Watson 17 SEP 2019.pdf

Dear Sir/Madam,

Please find attached hereto a letter for your urgent attention.

Kind regards,
Yvonne



info@lugisanimantshaattorneys.co.za 011 781 6059 www.lugisanimantshaattorneys.co.za
410 Jan Smuts Ave Dunkeld West Office Park Block 2

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79J 53

LUGISANI MANTSHA ATTORNEYS

First floor | Burnside Island | Block 6 | 410 Jan Smuts Ave | Craighall | Johannesburg
Tel: 011 781 0099 | Fax: 011 781 0526 | e-mail: info@lugisanimantshaattorneys.co.za |
Box 1127 | Randburg | 2125 |

Our Ref: Mr. D Mantsha LM0288/19/DM

Att: Mr Tokelo Mabele
Director and Officer of Liability Insurance
Willis Towers Watson
Per email: Tokelo.Mabela@WillisTowersWatson.com

Date: 17 September 2019

PRIVATE AND CONFIDENTIAL

"URGENT"

Dear Sir/Madam,

RE: ORGANISATION UNDOING TAX ABUSE NPC & ANOTHER V DUDUZILE CYNTHIA MYENI & OTHERS: CASE NO: 15996/2017

REQUEST FOR FUNDING

We refer to the above matter and our letter dated 09 September 2019 and request you to provide us with an update report as a matter of urgency.

We record our thanks in anticipation.

Yours Faithfully

Mr. L.D. Mantsha
Transmitted electronically without signature

"79K" 54

info@lugisanimantshaattorneys.co.za

From: info@lugisanimantshaattorneys.co.za
Sent: Tuesday, 17 September 2019 14:03
To: 'rashaad@pandorlaw.co.za'
Subject: ORGANISATION UNDOING TAX ABUSE NPC & ANOTHER V DC MYENI & OTHERS: CASE NO: 15996/2017
Attachments: Letter to Pandor Attorneys 17 September 2019.pdf

Dear Sir,

Please find attached hereto a letter for your attention.

Kind regards,
Yvonne



LUGISANI MANTSHA ATTORNEYS

info@lugisanimantshaattorneys.co.za 011 781 0999 www.lugisanimantshaattorneys.co.za

410 Jan Smuts Ave Bernaldo Island Office Park Block 6

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LUGISANI [illegible] ATTORNEYS

First floor | Burnside Island | Block 5 | 410 Jan Smuts Ave | Craighall | Johannesburg
Tel: 011 781 0099 | Fax: 011 781 0526 | e-mail: info@lugisanimantshaattorneys.co.za |
Box 1127 | Randburg | 2125 |

Our Ref: Mr D Mantsha

Your Ref: R Pandor/OUTA
Att: Mr R Pandor
Pandor Attorneys
Per email: rashaad@pandorlaw.co.za

Date: 17 September 2019

PRIVATE AND CONFIDENTIAL

"URGENT"

Dear Sir,

RE: ORGANISATION UNDOING TAX ABUSE NPC & ANOTHER V DC MYENI & OTHERS: CASE NO: 15996/2017

1. We refer to the above matter and your letter dated the 16 September 2019 and advise that we have consulted with our client

2. We do not have financial instructions to engage counsel, nor to prepare for trial. Our client has requested us to contact the SAA directors liability insurance which was covering the legal fees of her ershwhile legal team .

3. We have contacted the insurance and we await for their response as soon as we receive a positive response, counsel will be briefed.

4. We shall revert to you as soon as there are new developments in this regard.

79M 56

Yours Faithfully

Mr. L D Mantsha

Transmitted electronically without signature

COMMISSION OF INQUIRY INTO STATE CAPTURE

57 "DM13"
79N

Pandor Attorneys

Date: 19 September 2019

Our Reference: R Pandor/OUTA

Your Reference: D Manstha

LUGISANI MANTSHA ATTORNEYS

Email: info@lugisanimantshaattorneys.co.za

CC: Ms. Esther Rikhotso
Assistant to Judge JW Louw

Email: ERikhotso@judiciary.org.za

CC: Ms. Nancy Phohu
Office of the Deputy Judge President

Email: RNPhohu@judiciary.org.za

15 Peter Place, Bryanston
Telephone: 010 007 1469
Mobile: 082 551 3784
Fax: 086 595 4952
Email: info@pandorlaw.co.za

In association with Fox & Barratt Attorneys

Dear Sir

ORGANISATION UNDOING TAX ABUSE NPC & ANOTHER V DC MYENI & OTHERS: CASE NO 15996/2017

We refer to the above matter.

Whilst we note your offices reiteration that your client will not be ready for trial on grounds not explained to our offices, your offices have not confirmed that it will launch a substantive application for postponement along with a tender for costs.

Should you persist in seeking a postponement as implied, kindly deliver your client's substantive application for postponement by no later than Wednesday, 25 September 2019.

Your offices have also not reverted regarding a pretrial conference to be held. We shall accordingly serve a pretrial notice for next Thursday, 26 September 2019 at 11:00 at our counsel's chambers. Should there be no attendance for your client we shall simply minute same.

All our clients' rights remain reserved.

Yours faithfully

PANDOR

15 Peter Place, Bryanston
Telephone: 010 007 1469
Mobile: 082 551 3784
Fax: 086 595 4952
Email: info@pandorlaw.co.za

In association with Fox & Barratt Attorneys

"DM14"
79P 59

IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

CASE NO: 15996/2017

In the matter between:

ORGANISATION UNDOING TAX ABUSE NPC	First Plaintiff
SOUTH AFRICAN AIRWAYS PILOTS ASSOCIATION	Second Plaintiff
and	
DUDUZILE CYNTHIA MYENI	First Defendant
SOUTH AFRICAN AIRWAYS SOC LTD	Second Defendant
AIR CHEFS SOC LTD	Third Defendant
MINISTER OF FINANCE	Fourth Defendant

NOTICE IN TERMS OF RULE 37

TAKE NOTICE THAT a pretrial conference will be held on **Thursday 26 September 2019** at **11:00** at the chambers of **CAROL STEINBERG** situate at **4TH FLOOR, THULAMELA CHAMBERS, 1A PROTEA PLACE, SANDOWN, SANDTON.**

TAKE NOTICE FURTHER THAT the date, time and place so appointed may be amended, by agreement, subject to the proviso set out in Rule 37 (3) (a).

DATED AT JOHANNESBURG on this the **19 September 2019**

PANDOR ATTORNEYS
First and Second Plaintiff's Attorneys
15 Peter Place
Bryanston
Tel: 082 551 3784
Email: rashaad@pandorlaw.co.za
C/O LEE ATTORNEYS
51 Elandslaagte Street
Hazelwood
Tel: 082 451 2142
Email: lenelllee@msn.com
Ref: L Lee

TO:
THE REGISTRAR OF THE ABOVE
HONOURABLE COURT
PRETORIA

AND TO:
LUGISANI MANTSHA INCORPORATED
The First Defendant's Attorneys
No. 410 Jan Smuts Avenue
Burnside Island
Block 6, First Floor
Craighall, Johannesburg
PO Box 1127
Randburg, 2125
Tel: (011) 781 0099
Fax: (011) 781 0526
Ref: Mr D Mantsha
info@lugisanimantshaattorneys.co.za
C/O LUCKY THEKISO ATTORNEYS
Burlington House, 1st Floor
335 Helen Joseph (Church) Street
Pretoria, 0002
Tel: 012 771 2071
Fax: 086 667 4601

SERVICE VIA EMAIL AS AGREED

61

79R

Dayna Arnoldi

From: Dayna Arnoldi <info@lugisanimantshaattorneys.co.za>
Sent: Thursday, 19 September 2019 4:01 PM
To: 'rashaad@pandorlaw.co.za'
Cc: 'ERikhotso@judiciary.org'; 'RNPhohu@judiciary.org'
Subject: ORGANISATION UNDOING TAX ABUSE NPC & ANOTHER v DUDU C MYENI & OTHERS - CASE NO: 159962017
Attachments: Letter to Pandor Attorneys dated 29 September 2019.pdf

Dear Sir,

We refer to the above matter and enclose a letter for your attention

Kind regards,
Dayna Arnoldi

LUGISANI MANTSHA ATTORNEYS

[redacted]

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79S 62

LUGISANI MANTSHA ATTORNEYS

First floor | Burnside Island | Block 6 | 410 Jan Smuts Ave | Craighall | Johannesburg
Tel: 011 781 0099 | Fax: 011 781 0526 | e-mail: info@lugisanimantshaattorneys.co.za |
Box 1127 | Randburg | 2125 |

Our Ref: Mr. L. D Mantsha LM0288/19/DM

Att: Mr Rashaad Pandor
Pandor Attorneys
Per email: rashaad@pandorlaw.co.za

CC:
Ms. Esther Rikhotso – Assistant to Judge JW Louw
Per Email: ERikhotso@judiciary.org

Ms. Nancy Phohu – Office of the Deputy Judge President
Per email: RNPhohu@judiciary.org

19 September 2019

PRIVATE AND CONFIDENTIAL
"URGENT"

Dear Sir,

RE: ORGANISATION UNDOING TAX ABUSE NPC & ANOTHER v DUDU C MYENI & OTHERS
CASE NO: 159962017

1. We refer to the above matter and your letter dated 19 September 2019.

2. We confirm that, at this stage, we do not have financial instruction to prepare for trial, including pre-trial conference, nor to brief the Counsel.

3. We are currently in discussion with the first defendant insurance on behalf of our client to have her legal fees covered.

Yours faithfully

Mr. L.D Mantsha
Transmitted electronically, without a signature.

63 "DM4/6" 79T

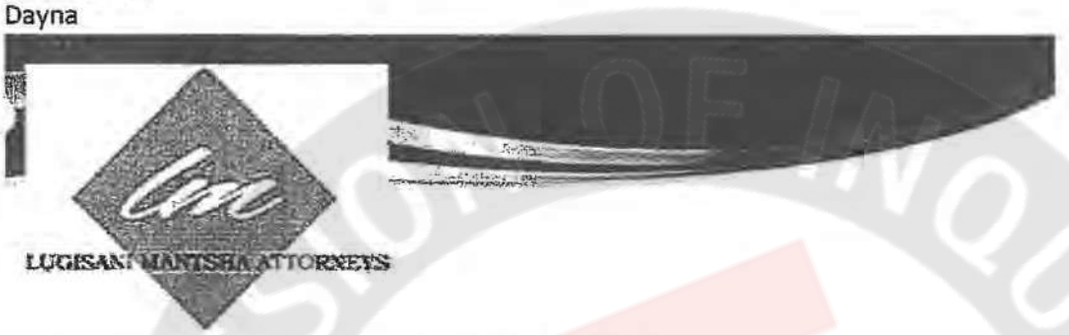
info@lugisanimantshaattorneys.co.za

From: info@lugisanimantshaattorneys.co.za
Sent: Thursday, 03 October 2019 13:52
To: 'Tokelo.Mabela@WillisTowersWatson.com'
Cc: 'KeitumetseMoreosele@flysaa.com'
Subject: ORGANISATION UNDOING TAX ABUSE NPC & ANOTHER V DUDUZILE CYNTHIA MYENI & OTHERS: CASE NO: 15996/2017
Attachments: Ms Myeni letter to Willis Towers Watson 03 Oct 2019.pdf

Dear Sir,

We refer to the above matter and attach herewith, a letter for your attention.

Kind regards,
Dayna



info@lugisanimantshaattorneys.co.za 011 781 6299 www.lugisanimantshaattorneys.co.za
410 Jan Smuts Ave, Dunkeld Island Office Park Block 5

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65

info@lugisanimantshaattorneys.co.za

From:	Mabele, Tokelo <Tokelo.Mabele@WillisTowersWatson.com>
Sent:	Friday, 04 October 2019 13:06
To:	Seloko, Ntombizodwa
Cc:	info@lugisanimantshaattorneys.co.za; Meletse, Biko S.; Maseko, Siphosihle; Jack, Angela
Subject:	#4474898726ZA_001#06#General Correspondence - REQUEST FOR FUNDING - SAA D&O CLAIM: Ms Dudu Myeni_State Capture policy number: 01 CML 507165 - WSA/NM/15470
Attachments:	Ms Myeni letter to Willis Towers Watson 09 SEP 2019.pdf; Myeni - Notice of Set Down (30.08.2019).pdf; Ms Myeni letter to Willis Towers Watson 03 Oct 2019.pdf

Dear Ntombizodwa,

We have just received the attached letter and Notice of set down . Unfortunately the letter was initially sent to the incorrect email address and our offices only became aware of this new request for funding today.

May you urgently assist.

Kind Regards

Tokelo Mabele
Claims Broker

Willis Towers Watson
Willis South Africa - FSP: 267, Registration No 1997/0204/6907
D: +27 (0)11 082 8789

From: Seloko, Ntombizodwa [mailto:Ntombizodwa.Seloko@aig.com]
Sent: 03 September 2019 11:29 AM
To: info@lugisanimantshaattorneys.co.za
Cc: Mabele, Tokelo
Subject: #4474898726ZA_001#06#General Correspondence - REQUEST FOR FUNDING - SAA D&O CLAIM: Ms Dudu Myeni_State Capture policy number: 01 CML 507165 - WSA/NM/15470

Good day

Kindly be advised that this matter has been allocated to myself and that all future correspondence herein should be directed to me.

We hereby advise that the policy will not respond to the claim for legal costs as there is a specific exclusion in respect of State Capture contained in Endorsement 14, quoted below for ease of reference:

'ENDORESEMENT 14- STATE CAPTURE EXCLUSION

It is hereby understood and agreed that the **Insurer** shall not be liable to make any payment arising out of, based upon or attributable to any **Claim** or **Loss** or costs or expenses made against or incurred by the **Insured** arising out of, based upon, or attributable to any allegation of alleged or actual involvement in any act, omission, wrongdoing or breach of any kind arising from, attributable to or based upon any involvement in *"State Capture"* referred to in the Public Protector's Report dated 14 October 2014 or any subsequent report, investigation, judicial proceedings, judicial

TRANSNET

Mr Siyabonga Gama
Acting Group Chief Executive
Transnet SOC Ltd

SUBJECT: REQUEST APPROVAL FOR THE JACOB G ZUMA FOUNDATION CONTRACT

For your attention

COMMENTS / NOTES:

From: Mboniso Sigonyela
Date: 30 July 2015

2015 -08- 03
Office of the Group Chief Executive
RECEIVED
19448

COMMISSION OF INQUIRY INTO STATE CAPTURE

Marlese van_Tonder Corporate JHB

From: Marlese van_Tonder Corporate JHB
Sent: 24 August 2015 09:54
To: hlopho@curiousbrand.com
Cc: Nomvelo Makhunga Transnet Corporate JHB
Subject: 19418 - DONATION FOR JACOB G ZUMA FOUNDATION YOUTH DAY EVENT
Attachments: 0404_001.pdf; Payment Advice Note from 19.08.2015.pdf

Tracking:

Recipient	Delivery
hlopho@curiousbrand.com	
Nomvelo Makhunga Transnet Corporate JHB	Delivered: 2015/08/24 09:54

Dear Mr Lerata

Mr Gama's letter dated 12 June 2015 refers.

Please note that payment was effected on 19 August 2015. Proof of payment is attached for your records.

Kind regards

TRANSNET

Marlese van Tonder
Office Administrator
Office of the Group Chief Executive
Transnet SOC Ltd

011-308-2526
083-282-6400
086-749-2226 / 011-308-2312
marlese.van_tonder@transnet.net
www.transnet.net

From: Marlese van_Tonder Corporate JHB
Sent: 15 June 2015 11:06
To: 'hlopho@curiousbrand.com'
Cc: Nomvelo Makhunga Transnet Corporate JHB
Subject: 19418 - DONATION FOR JACOB G ZUMA FOUNDATION YOUTH DAY EVENT

Dear Mr Lerata

The attached letter from Mr Siyabonga Gama, Acting Group Chief Executive, Transnet SOC Ltd dated 12 June 2015 is herewith forwarded to you for your further attention, please.

Kindly acknowledge receipt.

Kind regards

TRANSNET

Marlese van Tonder
Office Administrator
Office of the Group Chief Executive
Transnet SOC Ltd

011-308-2526
083-282-6400
086-749-2226 / 011-308-2312
marlese.van_tonder@transnet.net
www.transnet.net

COMMISSION OF INQUIRY INTO STATE CAPTURE

TRANSNET

Transnet Group Services
Postnet Suite 310
P.O. Box 2226
Carlton Centre
Johannesburg
2000

JACOB ZUMA FOUNDATION
PO Box 55588
NORTHLANDS
2116

SUPPLIER BANKING DETAILS:
Banking key: 632005
Bank account: 4074045177
ABSA BANK LIMITED, ABSA ELECTRONIC SE

Payment advice

Document / Date
1500039102 / 19.08.2015
Our accounting clerk

Telephone

Fax

Your account with us
2003881

Dear Sir/Madam,

We have cleared the items listed below with our document 1500039102.

Document	Your document	Date	Cash Discount	Gross amount
1900141419	TRAN 01/15	17.06.2015	0.00	500,000.00
Sum total			**0.00**	**500,000.00**

Payment document	Date	Currency	Payment amount
1500039102	**19.08.2015**	**ZAR**	**500,000.00**

TRANSNET

13157

605102/0

Payment Advice

Jacob Zuma Foundation
PO Box 1015
MEERENSEE
3900

03 August 2015

Description	Invoice Number	Invoice Date	Amount
605102 - Operating Expenses : Sponsorships - Towards Jacob Zuma Foundation - Youth Day Event - 20 June 2015	TRAN 01/15	2015/06/17	R500 000.00
		Subtotal	R500 000.00
		VAT	R0.00
		Total	R500 000.00

Transnet SOC Ltd
Registration Number 1990/000900/30
Office of the Chairman and GCE
PO Box 72501
PARKVIEW
South Africa
2122

49th Floor
Carlton Centre
150 Commissioner Street
JOHANNESBURG
2001

Telephone Number (011) 308-2526
Fax Number (011) 308-2312

By Hand	**Telephone number**	**Marlese *2526***	**Reference** TN(GBM&S) 3/6/174
Compiled by MTander	**Approved**		4/8/2015

Account	Depot	General Ledger	
0 0 0 7 0 5 0 0	1006006	605102	R500 000.00
		37003 (2)	R0.00

FOR OFFICE USE

Verified: _____ **Approved:** _____

Vendor No: _____

TB 01 No: _____ **Date:** _____

TB 05 No: _____ **Cheque No.:** _____

To file 13/8/2015

JACOB G ZUMA
FOUNDATION

PO Box 101577
Meerensee 2901

T: 035 789 5499 | F: 035 789 5399

admin@jacobzumafoundation.org.za

www.jacobzumafoundation.org.za

TAX INVOICE FOR TRANSNET SOC LTD

Invoice No	TRAN 01/15
Date	**17 June 2015**
Transnet VAT No	

Mr Siyabonga Gama
Carlton Centre
150 Commissioner Street
Johannesburg
2001

Per Email: Nomvelo.Makhunga@transnet.net

JACOB ZUMA FOUNDATION - YOUTH DAY EVENT - 20TH JUNE 2015

DESCRIPTION	TOTAL
Donation to the Jacob Zuma Foundation (Reg No 2008/021836/08 PBO No 930031017)	**R 500 000.00**
TOTAL DUE	**R 500 000.00**

Thank you.
Payment may be deposited into the following account:
Account Name: Jacob Zuma Foundation
Bank: Absa Bank
Account No: 4074 0451 77
Branch : Richards Bay
Branch Code: 632005

Signature: pp .....
Ms Dudu Myeni
Executive Chairperson
Jacob Zuma Foundation
No 1A Herrwood Drive
Umhlanga Rocks
4320

Breaking the cycle of intergenerational poverty

15698

TRANSNET

Transnet Group Services
Postnet Suite 310
P.O. Box 2226
Carlton Centre
Johannesburg
2000

JACOB ZUMA FOUNDATION
PO Box 55588
NORTHLANDS
2116

SUPPLIER BANKING DETAILS:
Banking key: 632005
Bank account: 4074045177
ABSA BANK LIMITED, ABSA ELECTRONIC SE

Payment advice

Document / Date
1500020727 / 07.03.2012
Our accounting clerk

Telephone

Fax

Your account with us
2003881

One of the previous payments. Mantese 3/8/2015

Dear Sir/Madam,

We have cleared the items listed below with our document 1500020727.

Document	Your document	Date	Cash Discount	Gross amount
1900057757	TRANSNET	20.02.2012	0.00	100,000.00
Sum total			**0.00**	**100,000.00**

Payment document	Date	Currency	Payment amount
1500020727	07.03.2012	ZAR	100,000.00

Transnet SOC Ltd
Registration Number
1990/000900/30

Carlton Centre
150 Commissioner Str.
Johannesburg
2001

P.O. Box 72501
Parkview
South Africa, 2122
T +27 11 308 2512
F +27 11 308 2638

TRANSNET

MEMORANDUM

www.transnet.net

To: **Mr Siyabonga Gama**
Acting Group Chief Executive

From: **Mr Mboniso Sigonyela**
GM: Corporate and Public Affairs

Date: 30 July 2015

SUBJECT: REQUEST APPROVAL FOR THE JACOB G ZUMA FOUNDATION CONTRACT

PURPOSE

1. The purpose of this submission is to request the Acting Group Chief Executive to approve the sponsorship/donation contract for the Jacob G Zuma Foundation.

BACKGROUND

2. The Acting GCE agreed that Transnet partners with the Jacob G Zuma Foundation for the Jacob G Zuma Foundation Youth Day event which took place on 20 June 2015 at the Durban ICC.

DISCUSSION

3. Transnet pledged a donation of R500, 000.00 (five hundred thousand rand) towards the Jacob G Zuma Foundation.

4. The benefits that were mentioned in the previous memo were altered because Transnet contributed R500,000.00 as opposed to the R3 million that was requested by the Jacob G Zuma Foundation.

5. Transnet was afforded the following benefits:
   - 1 x table of 10 Transnet guests at the event
   - The Acting GCE was seated at the main table with the host, His Excellency, President Jacob G Zuma
   - The Acting GCE addressed the honoured guests and students

6. The sponsorship/donation contract was sent to Group Legal for recommendation. No amendments were requested by the legal representative on the standard contract.

FINANCIAL IMPLICATIONS

7. None.

BUDGET IMPLICATIONS

8. None.

RECOMMENDATION

9. It is recommended that the Acting GCE signs the attached sponsorship/donation contract for the Jacob G Zuma Foundation.

Compiled by:

Nomvelo Makhunga
Corporate and Public Affairs
Date: 30/07/15

Recommended by:

Mbongiso Sigonyela
GM: Corporate and Public Affairs
Date: 2015

Supported by:

03/08/2015

Samkelo Mtwana
Legal Advisor: Litigation and Admin Law
Date:

Approved/Not Approved by:

Siyabonga Gama
Acting Group Chief Executive
Date: 4 August 2015

TRANSNET

SPONSORSHIP/DONATION AGREEMENT

entered into by and between

TRANSNET SOC LTD ("Transnet") Registration Number 1990/000900/30

And

JACOB G ZUMA FOUNDATION Registration Number 2008/021836/08

PBO 937 031 017

(hereinafter referred to as the "the Beneficiary")

(Collectively referred to as the "the Parties")

COMMISSION OF INQUIRY INTO STATE CAPTURE

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1 INTERPRETATION

Unless otherwise expressly stated, or the context otherwise requires, the words and expressions listed below shall, when used in this Agreement or in any annexures hereto, bear the meanings ascribed to them:

1.1 "**Act**" means the Companies Act No. 71 of 2008;

1.2 "**Agreement**" means this agreement together with all its annexures;

1.3 "**Beneficiary**" means Jacob G Zuma Foundation;

1.4 "**Business Day**" means any day, other than a Saturday, Sunday or proclaimed public holiday in South Africa;

1.5 "**Commencement Date**" means the date upon which the Donation as defined herein is paid by Transnet to the Beneficiary;

1.6 "**Income Tax Act**" means the Income Tax Act, 58 of 1962 as amended;

1.7 "**Parties**" means, individually or collectively, as the context may require, Transnet SOC Ltd ("Transnet") and the Beneficiary;

1.8 "**Signature Date**" means the date upon which this Agreement is signed by the last of the parties thereto;

1.9 "**Sponsorship**" and or "**Donation**" means the amount of **ZAR 500 000. 00 (five hundred thousand rand)** (including Value-Added Tax (VAT) to be made available by Transnet SOC Ltd ("Transnet") to the Beneficiary during the year 2015

1.10 "**Transnet SOC Ltd**" means Transnet SOC Ltd (Registration number 1990/000900/30), having its registered address on the 49th Floor, Carlton Centre, 150 Commissioner Street, Johannesburg, 2001.

2 INTRODUCTION

2.1 Transnet SOC Ltd hereby grants the Beneficiary the Donation in terms hereof and as contained in Annexure A.

2.2 The responsible person representing the Beneficiary is Mr Hlopho Lerata, in his capacity as Managing Director of Qurious Brand, the agent appointed by the Beneficiary.

2.3 The Beneficiary hereby accepts the Donation on the terms and conditions set out herein.

3 CONDITIONS PRECEDENT

3.1 If the organisation is registered as a public benefit organisation as defined in the Income Tax Act, Transnet may conduct a mini due diligence to ensure that the organisation is incorporated accordingly and that the activities it undertakes are those that are set out in the Income Tax Act as qualifying for the said exemption.

3.2 If the condition precedent is not fulfilled by the Signature Date, or such later date as may be agreed by the Parties, then this Agreement shall lapse, and shall have no force or effect.

3.3 The Parties shall use their best endeavours to procure the timeous fulfilment of the above condition precedent.

4 PURPOSE OF THE SPONSORSHIP AND/OR DONATION

4.1 The purpose of the sponsorship/donation is to assist the Jacob G Zuma Foundation in hosting the "Jacob G Zuma Foundation Youth Day event" on 20 June 2015 at the Durban ICC.

4.2 The Beneficiary shall use the Transnet Donation for the purposes set out herein and as set out in the proposal, which is attached hereto as Annexure A.

5 DURATION

5.1 This Agreement shall, notwithstanding any provision to the contrary, endure for a period of twelve (12) months commencing on the Commencement Date.

6 PAYMENT OF SPONSORSHIP / DONATION

6.1 Payment of the donation shall be made by Transnet to the Beneficiary as once off payment and shall become payable within thirty (30) working days following the Signature Date and submission of an original invoice from the beneficiary, whichever occurs last.

6.2 Payment of the donation will be made by electronic fund transfer (EFT) into the Beneficiary's bank account whose details are fully set out in Schedule 1 appended hereto.

7 BENEFICIARY'S OBLIGATION

7.1 The Beneficiary shall procure that the Donation shall be used exclusively for the purposes described in clause 4 above (*purpose of the payment of*

sponsorship/donation) and will be administered in accordance with all applicable financial rules and regulations, administrative rules and practices.

7.2 Jacob G Zuma Foundation agrees to the following for the "Jacob G Zuma Foundation Youth Day" event:

a. 1 x table of 10 Transnet guests at the event

b. The Acting GCE will be seated at the main table with the host, His Excellency, President Jacob G Zuma

c. Opportunity for the Acting GCE to address the honoured guests and students

8 ACKNOWLEDGEMENT

The Beneficiary shall submit to Transnet a written acknowledgement of receipt of the Donation, quoting Transnet reference number SG/19418 within 30 (thirty) days of receipt thereof.

9 ADVERTISING

9.1 For the duration of this Agreement, Transnet shall be named as a sponsor and / or donor on all publicity material or media related to this Agreement which shall include media interviews, newspaper articles, flyers, posters, banners, etc.

9.2 As consideration for the Donation, Transnet shall expect recognition as indicated in proposal reference number Annexure A.

9.3 The Beneficiary shall only use the Transnet logo for the purposes of this Agreement as provided by Transnet and with the express permission of Transnet SOC Ltd ("Transnet") to do so.

9.4 Transnet reserves the right to terminate this Agreement should the Beneficiary fail to comply with the terms of this clause 9.

10 REPORT

10.1 A financial statement and report on the use of the donation shall be submitted to Transnet at the end of financial year for the duration of this agreement.

10.2 Subject to the above, Transnet reserves the right to:

a) request a full progress report whenever it deems fit; and

b) request a financial report at any time other than the periods set out.

11 USE OF SPONSORSHIP / DONATION

11.1 The Donation together with all interest accrued thereon is to be used only for the purpose approved herein unless alternative arrangements are agreed to with Transnet and approval is received in writing.

11.2 The Donation is to be utilised in the time period for which it has been requested. In the event of delays for whatever reasons, a written report must be submitted immediately explaining the reasons for the delay and furnishing the new date of implementation and the expected date of completion of the process, programme, course or project.

11.3 Transnet shall provide acceptance or decline of such delay in writing.

11.4 In the event of Transnet declining such delay, the Beneficiary shall return the Donation to Transnet within seven working days of receiving notice of such decline.

12 CONFIDENTIALITY

12.1 When information provided in the context of this Agreement is described by the Party providing it as confidential, the receiving Party will take all reasonable measures to keep the information confidential and will only use the information for the purpose for which it was provided. The receiving Party undertakes to disclose such confidential information only to persons who are entitled to know, within the aforesaid purpose and who are bound by like obligations of confidentiality and restrictions on use as contained herein. However, there will be no obligation of confidentiality or restriction on use where:

a) the information is publicly available, or becomes publicly available otherwise than by action of the receiving Party; or

b) the information was already known to the receiving Party (as evidenced by its written records) prior to its receipt under this or any previous agreement between the Parties or their affiliates; or

c) the information was received from a third Party not in breach of an obligation of confidentiality.

12.2 The Beneficiary shall procure that its employees and/or representatives comply with the provisions of this clause 12.

13 COSTS

Each Party shall be responsible for its own costs of negotiating and finalising this Agreement, if any.

14 GOOD FAITH

The Parties record that in the spirit of this Agreement; they will collaborate and communicate openly, frankly, and in good faith, with a view to discussing and resolving outstanding issues, in a timely, pragmatic and ethical manner.

15 TERMINATION

15.1 Should the purpose of the Donation become unachievable in any manner for any reason or should the purpose of the Donation be heavily endangered by any internal or external circumstances not foreseeable by the Parties to this Agreement, then each Party shall have the right to terminate this Agreement by giving 3 (three) month's notice in writing to the other Party.

15.2 Should the aims and objectives of the Beneficiary change so that they are not consistent with the aims and objectives to be achieved by the purpose of the Donation, Transnet shall have the right to terminate this Agreement by giving 3 (three) month's notice in writing to the Beneficiary.

15.3 Notwithstanding clauses 15.1 and 15.2 above, the Parties will take into consideration any contracts of employment, if applicable, that cannot be terminated within 3 (three) months.

16 BREACH

16.1 If the Beneficiary breaches this Agreement including, but not limited to, a breach in terms of clause 4 (*Purpose of the Sponsorship / Donation)* above, and fails to remedy such breach within a reasonable period of time after written notice from Transnet calling for the breach to be remedied, then Transnet shall be entitled, without prejudice to any other rights that it may have, whether under this Agreement or in law, to cancel this Agreement without notice or to claim immediate specific performance of all the Beneficiary's obligations in terms hereof, whether or not due for performance, in either event without prejudice to any recourse Transnet may have in law, including its right to claim damages.

16.2 In the event that the Beneficiary is in breach of this Agreement, Transnet may, without prejudice to any other rights that it may have, whether under this Agreement

or in law, cancel this Agreement and require the Beneficiary to transfer the Donation to either a) Transnet or b) any other non-profit organisation having the same aims and objectives as the Beneficiary's prior to the said breach as Transnet may determine.

17 NO AGENCY

Nothing in this Agreement will be deemed to constitute a partnership between the Parties or to constitute either Party as the agent of the other.

18 ASSIGNMENT

18.1 This Agreement will be binding upon the successors and assignees of the Parties hereto and the name of a Party appearing in this Agreement will be deemed to include the names of its successors and assignees, provided that nothing herein will permit any assignment of this Agreement by either Party without the prior written consent of the other (such consent not to be unreasonably withheld).

18.2 Notwithstanding the provisions of clause 18.1 above, Transnet shall be entitled to assign this Agreement to a company or organisation within the Transnet Group.

19 GOVERNING LAW AND JURISDICTION

The law governing this Agreement, including without limitation its interpretation and all disputes arising out of this Agreement, is the law of South Africa, and the Parties submit to the exclusive jurisdiction of the South African courts in respect of any matter arising from or in connection with this Agreement, including its termination. The Parties further consent to the jurisdiction of the South Gauteng High Court.

20 DISPUTE RESOLUTION

20.1 Any dispute at any time between any of the Parties to this Agreement arising out of the interpretation, rectification, breach, termination, repudiation or cancellation of, or any other matter arising out of, this Agreement, except where an interdict or other urgent relief is sought from a court of competent jurisdiction, or where otherwise provided in this Agreement, shall be referred to the Group Chief Executive of Transnet and the Team Manager of the Beneficiary who shall use their best endeavours to reach a resolution of the dispute.

20.2 In the event that a dispute has not been resolved in terms of clause 20.1 above within fourteen (14) days or such further period as the parties may agree to, after

such dispute has been referred in terms of that clause, the dispute shall be submitted to and decided by arbitration, in terms of the Arbitration Act, 1965, of South Africa ("the Arbitration Act").

21 NOTICES AND LEGAL PROCESS

21.1 Each party chooses as its address for all purposes under this Agreement ("chosen address"), whether for serving any court process or documents, giving any notice, or making any other communications of whatsoever nature and for any other purpose arising from this Agreement as follows:

Transnet SOC Ltd ("Transnet")

49th Floor Carlton Centre

150 Commissioner Street

JOHANNESBURG

2001

And

Jacob G Zuma Foundation

Unit 2 Atterbury House

Hampton Office Park

20 Georgian Crescent

Bryanston

2191

21.2 Any notice required or permitted under this Agreement shall be valid and effective only if in writing.

21.3 Any party may, by notice to the other party, change its chosen address to another physical address in the Republic of South Africa and such change shall take effect on the seventh day after the date of receipt by the other party of such notice.

21.4 Any notice to a party contained in a correctly addressed envelope and delivered by hand to a responsible person during ordinary business hours at its chosen address, shall be deemed to have been received on the date of delivery.

21.5 Notwithstanding anything to the contrary herein, a written notice actually received by a party, including a notice sent by fax, shall be an adequate notice to it notwithstanding that it was not sent or delivered to its chosen address.

22 GENERAL

22.1 Transnet shall have no obligation of any nature whatsoever to the Beneficiary other than as provided for herein.

22.2 The Beneficiary shall and hereby does indemnify Transnet and holds it harmless against

a) any loss of or damage to its own property, whether movable or immovable;

b) liability in respect of any loss of or damage to the property, whether movable or immovable, of third parties;

c) liability in respect of death of or injury to any third party; and

d) any legal costs or expenses incurred in connection with claims or actions arising out of any of the foregoing, whenever the loss, damage, injury or death referred to in clauses 23.2(a), (b) and (c) above, is due to or arises out of the sponsorship / donation granted by Transnet.

22.3 No director, member, relation or employee of the Beneficiary shall have any claim against Transnet that arises from this Agreement.

22.4 The Beneficiary accepts that any contravention of these conditions may result in Transnet requesting that the full sponsorship / donation together with accrued interest hereon be paid back to Transnet.

22.5 Both parties confirm that they have read and understood the terms and conditions set out in the preceding paragraphs and accept they are bound by the said terms and conditions.

IN WITNESS whereof this Agreement has been duly executed by the Parties.

For and on behalf of	For and on behalf of
TRANSNET SOC LTD duly authorised thereto	**JACOB G ZUMA FOUNDATION** duly authorised thereto
Name:	Name: B. C. Griffith
Position:	Position: Administrator
Signature:	Signature:
Date: 13 Aug 2015	Date: 22/06/15
Place: Johannesburg	Place: Richards Bay

AS WITNESS:	**AS WITNESS:**
Name: Mbali Ramuti	Name: Faith Nxumalo
Signature:	Signature:
Date: 13 August 2015	Date: 22/06/15
Place: Johannesburg.	Place: Richards Bay

AS WITNESS:	**AS WITNESS:**
Name: KATLEHO MOLEKO	Name: C S L GRIFFITH
Signature:	Signature:
Date: 13/08/2015	Date: 22/06/15
Place: Johannesburg	Place: Richards Bay

Schedule 1 – BENEFICIARY BANKING DETAILS

Name of Account JACOB ZUMA FOUNDATION

Name of Bank ABSA

Name of Branch RICHARDS BAY

Branch code | 6 | 3 | 2 | 0 | 0 | 5 |

Type of Account Cheque [X] Savings [ ]

Other Specify /

Account Number | 4 | 0 | 7 | 4 | 0 | 4 | 5 | 1 | 7 | 7 | / | / |

How many signatories are there to this account:

2 (TWO)

Please give full initials, surname and position in the organisation:

D.C. MYENI, EXECUTIVE CHAIRPERSON

B.T.T. MATHE, DIRECTOR.

Name of the person who keeps your books/bookkeeper:

Name JENNY STILLWELL

Telephone code ~~011~~ Number 083659 1810 Fax —

Is this person a ~~full time~~ _____ or part time ✓ employee?

ANNEXURE A- PROPOSAL

qurious
BRAND•DESIGN•LIFESTYLE

3 June 2015

Mr Siyabonga Gama
Carlton Centre
150 Commissioner Street
Johannesburg
2001

Dear Mr Gama

REQUEST FOR DONATIONS TOWARDS THE JACOB G ZUMA FOUNDATION

On behalf of His Excellency, the President of the Republic of South Africa, Mr Jacob G Zuma, we would like to offer you, in your capacity as acting CEO of Transnet, the opportunity to contribute to the Jacob G Zuma Foundation (JGZF) Youth Day Event, to be held at the Durban ICC on Saturday, 20 June, 2015.

The event is to be held in celebration of June 16, a day marked by the South African Government as Youth Day. It will showcase the strides that the JGZF has made in the area of education by celebrating the graduation of some of the beneficiaries of the Foundation, and allowing students from around the province to interact with their future employers and role models.

As one of our country's most prominent state entities and employers, Transnet's attendance and contribution would be of great significance and value to the event. Transnet can have a direct influence on the lives of the youth of our country, not only by your interaction with them at the upcoming event, but also by donating R3 million towards both the event and the ongoing efforts of the Foundation in educating our leaders of tomorrow.

The Founder and Patron of the JGZF, His Excellency, President Jacob G Zuma, will be in attendance as the key note speaker, along with Cabinet Ministers, Captains of Industries – such as yourself – and the Foundation's Partners.

As one of the honoured guests and generous sponsors, you will be provided with a table of 10 for Transnet guests, as well as a place for yourself at the President's table. You will be able to help us to inspire some of the young attendees by dining and interacting with them, even advising them on their educational and career choices. You will also be given an opportunity to address the honoured guests and students on the potential opportunities and careers available to them at Transnet, as well as the company's position as a state entity.

Details of the event are as follows:

Date: 20 June 2015
Venue: ICC Durban, KZN
Time: 12h00 – 16h00

Qurious Brand, has been granted full permission by the Jacob G Zuma Foundation to act on as the Fundraising and Sponsorship Partner on their behalf for the raising of funds, and the procurement of sponsorships and donations. Any queries or concerns regarding your donation can be addressed directly to us at hlopho@quriousbrand.co.za or 011 039 1466 / 073 4027 376. For your convenience we have included the banking details of the JGZF below.

It is with profound gratitude that we thank you for any assistance that you can provide on behalf of Transnet in helping the Foundation to fight for the education of our underprivileged young citizens, and to honour the Patron with an event that is in keeping with his position as our esteemed National Leader.

qurious
BRAND•DESIGN•LIFESTYLE

Yours sincerely,



Mr Hlopho Lerata
Managing Director
Qurious Brand

Banking Details:
Account Holder: Jacob Zuma Foundation
Bank: Absa
Account Number: 407 404 5177
Branch Code: 632005
Account Type: Cheque
IBAN Number: //ZA632005
SWIFT: ABSAZAJJ

COMMISSION OF INQUIRY INTO STATE CAPTURE

TRANSNET

Mr Siyabonga Gama
Acting Group Chief Executive
Transnet SOC Ltd

SUBJECT: DONATION REQUEST TOWARDS THE JACOB G ZUMA FOUNDATION YOUTH DAY EVENT

For your attention

COMMENTS / NOTES:

From: Mboniso Sigonyela
Date: 08 June 2015

2015 -06- 09
Office of the Group Chief Executive
RECEIVED 19418

COMMISSION OF INQUIRY INTO STATE CAPTURE

Marlese van_Tonder Corporate JHB

From: Marlese van_Tonder Corporate JHB
Sent: 15 June 2015 11:08
To: Nomvelo Makhunga Transnet Corporate JHB
Cc: Mboniso Sigonyela Transnet Corporate JHB; Masego Modisane Transnet Corporate JHB; Viwe V.Tlaleane; shulami.qalinge@transnet.net
Subject: 19418 - DONATION FOR JACOB G ZUMA FOUNDATION YOUTH DAY EVENT
Attachments: 0404_001.pdf; 0405_001.pdf

Tracking:

Recipient	Delivery
Nomvelo Makhunga Transnet Corporate JHB	
Mboniso Sigonyela Transnet Corporate JHB	Delivered: 2015/06/15 11:08
Masego Modisane Transnet Corporate JHB	
Viwe V.Tlaleane	Delivered: 2015/06/15 11:08
shulami.qalinge@transnet.net	Delivered: 2015/06/15 11:08

Dear Nomvelo

Mr Gama approved the Memo and signed the letter to Mr Lerata on 12 June 2015.

File is pending with me awaiting the Sponsorship Agreement and Invoice.

Kind regards

TRANSNET

Marlese van Tonder
Office Administrator
Office of the Group Chief Executive
Transnet SOC Ltd

011-308-2526
083-282-6400
086-749-2226 / 011-308-2312
marlese.van_tonder@transnet.net
www.transnet.net

From: Marlese van_Tonder Corporate JHB
Sent: 15 June 2015 11:06
To: 'hlopho@curiousbrand.com'
Cc: Nomvelo Makhunga Transnet Corporate JHB
Subject: 19418 - DONATION FOR JACOB G ZUMA FOUNDATION YOUTH DAY EVENT

Dear Mr Lerata

The attached letter from Mr Siyabonga Gama, Acting Group Chief Executive, Transnet SOC Ltd dated 12 June 2015 is herewith forwarded to you for your further attention, please.

Kindly acknowledge receipt.

Kind regards

TRANSNET

Marlese van Tonder
Office Administrator
Office of the Group Chief Executive
Transnet SOC Ltd

011-308-2526
083-282-6400
086-749-2226 / 011-308-2312
marlese.van_tonder@transnet.net
www.transnet.net

COMMISSION OF INQUIRY INTO STATE CAPTURE

Marlese van_Tonder Corporate JHB

From: Marlese van_Tonder Corporate JHB
Sent: 15 June 2015 11:06
To: 'hlopho@curiousbrand.com'
Cc: Nomvelo Makhunga Transnet Corporate JHB
Subject: 19418 - DONATION FOR JACOB G ZUMA FOUNDATION YOUTH DAY EVENT
Attachments: 0404_001.pdf

Tracking:

Recipient	Delivery
'hlopho@curiousbrand.com'	
Nomvelo Makhunga Transnet Corporate JHB	Delivered: 2015/06/15 11:06

Dear Mr Lerata

The attached letter from Mr Siyabonga Gama, Acting Group Chief Executive, Transnet SOC Ltd dated 12 June 2015 is herewith forwarded to you for your further attention, please.

Kindly acknowledge receipt.

Kind regards

TRANSNET

Marlese van Tonder
Office Administrator
Office of the Group Chief Executive
Transnet SOC Ltd

011-308-2526
083-282-6400
086-749-2226 / 011-308-2312
marlese.van_tonder@transnet.net
www.transnet.net

COMMISSION OF INQUIRY INTO STATE CAPTURE

Siyabonga Gama, Acting Group Chief Executive

TRANSNET

Our Ref No: SG/19418

Mr Hlopho Lerata
Managing Director
Qurious Branding and Design Consultancy CC
No 19 Stratford
Waterloo Street
BRYANSTON
2194

E-mailed and posted
MJ 15/6/2015

E-mail: hlopho@curiousbrand.com

Dear Mr Lerata

DONATION FOR JACOB G ZUMA FOUNDATION YOUTH DAY EVENT

Your letter dated 3 June 2015 refers.

Thank you for inviting Transnet SOC Ltd ("Transnet") to support the Jacob G Zuma Foundation Youth Day event to be held on 20 June 2015 at the Durban ICC.

This seeks to confirm that Transnet will partner with your Foundation and pledge a donation of R500,000.00 (Five Hundred Thousand Rand) for 2015.

My colleague, Nomvelo Makhunga, will interact with your office and agree on details of the sponsorship. Ms Makhunga's details are: Tel: 011-308-3906 / Cell: 060-560-2859 / E-mail: Nomvelo.Makhunga@transnet.net

We wish you success in your future endeavours.

Kind regards

Siyabonga Gama
Acting Group Chief Executive
Date: 2015.06.12

COMMISSION OF INQUIRY INTO STATE CAPTURE

Office of the Group Chief Executive

TRANSNET

Mr Hlopho Lerata
Qurious Branding and Design Consultancy cc.
No 19 Stratford
Waterloo Street
Bryanston
2194

E-mail: hlopho@curiousbrand.com

Dear Mr Lerata

RE: DONATION FOR JACOB G. ZUMA FOUNDATION YOUTH DAY EVENT

Your e-mail dated 24 April 2015 has reference.

Thank you for inviting Transnet SOC Ltd ("Transnet") to support the Jacob G. Zuma Foundation Youth Day event to be held on 20 June 2015 at the Durban ICC.

This seeks to confirm that Transnet will partner with your Foundation and pledge a donation of R500, 000 for 2015.

My colleague, Nomvelo Makhunga, will interact with your office and agree on details of the sponsorship. Ms Makhunga's details are: Tel: 011 308 3906 / 060 560 2859 / E-mail: Nomvelo.Makhunga@transnet.net

We wish you success in your future endeavors.

Kind regards,

Siyabonga Gama

_____
Acting Group Chief Executive
Date:

Mole pp Masego Modisane
9/6/2015

Transnet SOC Ltd
Registration Number
1990/000900/30

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150 Commissioner
Street
Johannesburg
2001

P.O. Box 72501
Parkview, Johannesburg
South Africa, 2122
T +27 11 308 3001
F +27 11 308 2638

Directors: LC Mabaso (Chairperson) B Molefe* (Group Chief Executive) Y Forbes GJ Mahlalela PEB Mathekga N Moola ZA Nagdee VM Nkonyane MR Seleke SD Shane BG Stagman PG Williams A Singh* (Group Chief Financial Officer)
*Executive
Group Company Secretary: ANC Ceba

www.transnet.net

Transnet SOC Ltd
Registration
Number
1990/000900/30

Carlton Centre
150 Commissioner
Str. Johannesburg
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T +27 11 308 2458
F +27 11 308 2638

TRANSNET

www.transnet.net

MEMORANDUM

To: **Mr Siyabonga Gama**
Acting Group Chief Executive

From: **Mr Mboniso Sigonyela**
GM: Corporate and Public Affairs

Date: 08 June 2015

Subject: **DONATION REQUEST TOWARDS THE JACOB G. ZUMA FOUNDATION YOUTH DAY EVENT**

PURPOSE

1. The purpose of this memo is to request the Acting Group Chief Executive's approval for Transnet:
   i. To pledge a donation towards both the Jacob G. Zuma Foundation Youth Day event to be held at the Durban ICC on Saturday, 20 June 2015 and the ongoing efforts of the Foundation in educating the youth.
   ii. That Corporate and Public Affairs coordinates Transnet's participation, including branding.
   iii. Acting GCE recommends stakeholders to attend the event.

BACKGROUND

2. The Jacob G. Zuma Foundation is a registered and legally incorporated Not for Profit Organisation (NPO) and is also a Public Benefit Organisation (PBO) for tax deductible donations.
3. One of the Jacob G. Zuma Foundation's key focus points is the improvement and accessibility of basic and higher education.
4. The Foundation believes that education forms the backbone of any society. It also believes that, by educating our youth, not only will our economy prosper, but many other societal ills such as crime, HIV, child-headed households and drug abuse will be eradicated.

DISCUSSION

5. Transnet has been requested to pledge a donation towards the Jacob G. Zuma Foundation Youth Day event and the ongoing efforts of the Foundation in educating the youth.
6. The event is to be held in celebration of June 16, a day marked by the South African government as Youth Day.
7. The event will showcase the strides that the Jacob G. Zuma Foundation has made in the area of education by celebrating the graduation of some of the beneficiaries of the

Foundation, and allowing students from around the province to interact with their future employers and role models.

8. The opportunity will further afford Transnet the following benefits:
    - Transnet will be given an opportunity to brand at the event
    - The Acting GCE will be seated at the President's table
    - 1 x table of 10 Transnet guests at the event
    - An opportunity for the Acting GCE to address the honoured guests and students

9. The gesture will afford Transnet brand exposure and an opportunity to send key messages to local audience about Transnet's objectives and significant milestones achieved.

FINANCIAL IMPLICATIONS

10. The donation will cost Transnet a total of R500. 000.00 (five hundred thousand rand) including VAT.

BUDGET IMPLICATIONS

11. The funds will be sourced from the GCE's sponsorship budget.

RECOMMENDATION

12. It is recommended that the Acting GCE approves for Transnet:
    i. To pledge a donation towards both the Jacob G. Zuma Foundation Youth Day event to be held at the Durban ICC on Saturday, 20 June 2015 and the ongoing efforts of the Foundation in educating the youth.
    ii. That Corporate and Public Affairs coordinates Transnet's participation including branding
    iii. Acting GCE recommends stakeholders to attend the event.

Compiled by:

Nomvelo Makhunga
Corporate and Public Affairs
Date: 09/06/15

Recommended by:

Mde pp Masego Modisane

Mboniso Sigonyela
GM: Corporate and Public Affairs
Date: 09/06/2015

Approved by:

Siyabonga Gama
Acting Group Chief Executive
Date: 2015/06/12

qurious
BRAND•DESIGN•LIFESTYLE

3 June 2015

Mr Siyabonga Gama
Carlton Centre
150 Commissioner Street
Johannesburg
2001

Dear Mr Gama

REQUEST FOR DONATIONS TOWARDS THE JACOB G ZUMA FOUNDATION

On behalf of His Excellency, the President of the Republic of South Africa, Mr Jacob G Zuma, we would like to offer you, in your capacity as acting CEO of Transnet, the opportunity to contribute to the Jacob G Zuma Foundation (JGZF) Youth Day Event, to be held at the Durban ICC on Saturday, 20 June, 2015.

The event is to be held in celebration of June 16, a day marked by the South African Government as Youth Day. It will showcase the strides that the JGZF has made in the area of education by celebrating the graduation of some of the beneficiaries of the Foundation, and allowing students from around the province to interact with their future employers and role models.

As one of our country's most prominent state entities and employers, Transnet's attendance and contribution would be of great significance and value to the event. Transnet can have a direct influence on the lives of the youth of our country, not only by your interaction with them at the upcoming event, but also by donating R3 million towards both the event and the ongoing efforts of the Foundation in educating our leaders of tomorrow.

The Founder and Patron of the JGZF, His Excellency, President Jacob G Zuma, will be in attendance as the key note speaker, along with Cabinet Ministers, Captains of Industries – such as yourself – and the Foundation's Partners.

As one of the honoured guests and generous sponsors, you will be provided with a table of 10 for Transnet guests, as well as a place for yourself at the President's table. You will be able to help us to inspire some of the young attendees by dining and interacting with them, even advising them on their educational and career choices. You will also be given an opportunity to address the honoured guests and students on the potential opportunities and careers available to them at Transnet, as well as the company's position as a state entity.

Details of the event are as follows:

Date: 20 June 2015
Venue: ICC Durban, KZN
Time: 12h00 – 16h00

Qurious Brand, has been granted full permission by the Jacob G Zuma Foundation to act on as the Fundraising and Sponsorship Partner on their behalf for the raising of funds, and the procurement of sponsorships and donations. Any queries or concerns regarding your donation can be addressed directly to us at hlopho@quriousbrand.co.za or 011 039 1466 / 073 4027 376. For your convenience we have included the banking details of the JGZF below.

It is with profound gratitude that we thank you for any assistance that you can provide on behalf of Transnet in helping the Foundation to fight for the education of our underprivileged young citizens, and to honour the Patron with an event that is in keeping with his position as our esteemed National Leader.

qurious
BRAND•DESIGN•LIFESTYLE

Yours sincerely,



Mr Hlopho Lerata
Managing Director
Qurious Brand

Banking Details:
Account Holder: Jacob Zuma Foundation
Bank: Absa
Account Number: 407 404 5177
Branch Code: 632005
Account Type: Cheque
IBAN Number: //ZA632005
SWIFT: ABSAZAJJ

COMMISSION OF INQUIRY INTO STATE CAPTURE

MBONISO, Does this make sense to you to support?

COMMISSION OF INQUIRY INTO STATE CAPTURE

qurious
BRAND•DESIGN•LIFESTYLE

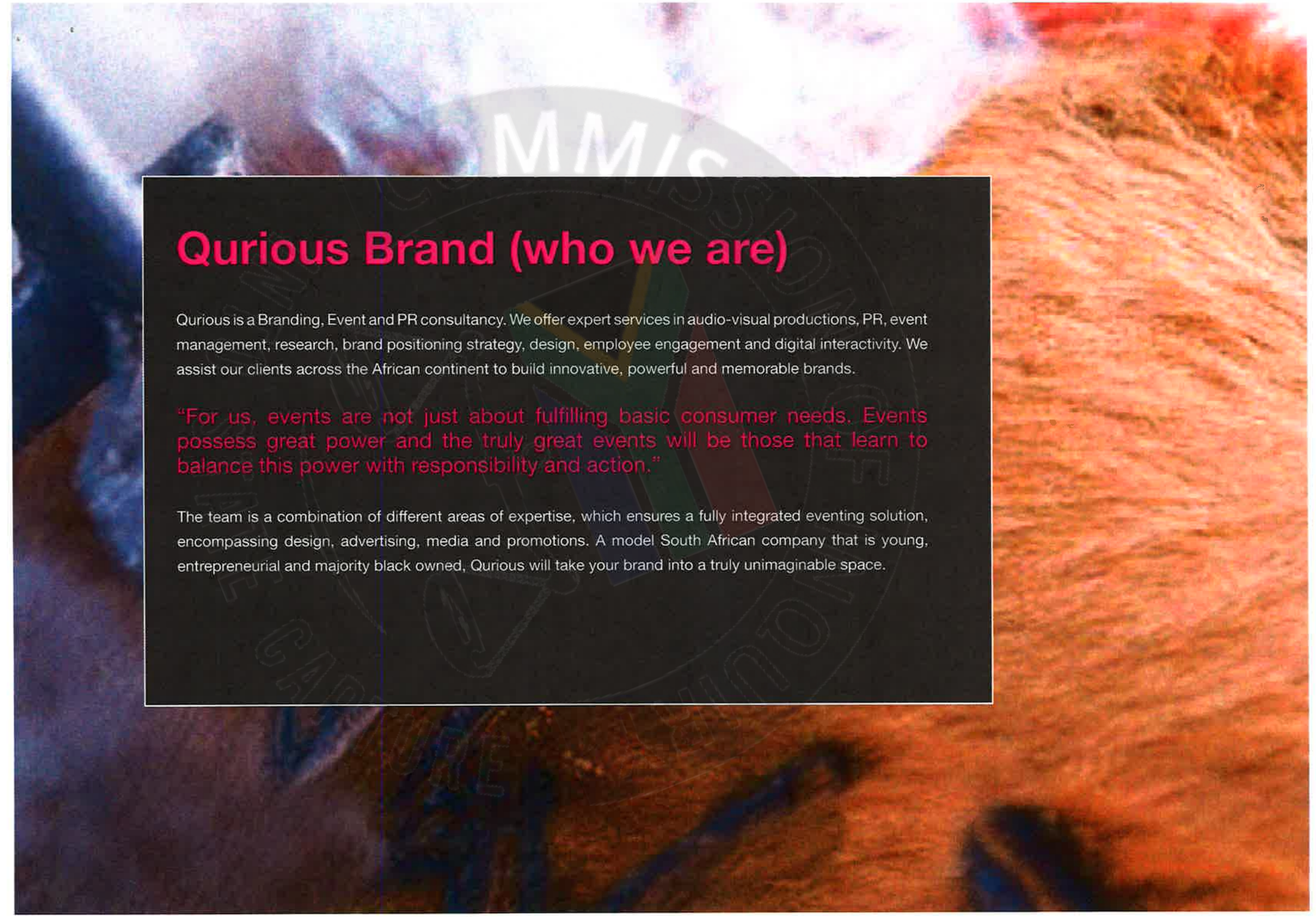
Jacob G Zuma Foundation
Youth Month Event Proposal

A Qurious Brand and Design Consultancy Proposal
Prepared By: Hlopho Lerata
29 May 2015

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Marketing Campaign

COMMISSION OF INQUIRY INTO STATE CAPTURE



Qurious Brand (who we are)

Qurious is a Branding, Event and PR consultancy. We offer expert services in audio-visual productions, PR, event management, research, brand positioning strategy, design, employee engagement and digital interactivity. We assist our clients across the African continent to build innovative, powerful and memorable brands.

"For us, events are not just about fulfilling basic consumer needs. Events possess great power and the truly great events will be those that learn to balance this power with responsibility and action."

The team is a combination of different areas of expertise, which ensures a fully integrated eventing solution, encompassing design, advertising, media and promotions. A model South African company that is young, entrepreneurial and majority black owned, Qurious will take your brand into a truly unimaginable space.

DD34-DCM-1184

Introduction

The key objective of this proposal is to create an event for the Jacob Zuma Foundation to celebrate Youth Month, commemorate the youth and reinforce the importance one of the pillars of the foundation, that of "education" in nation building.

We have developed a strong event concept focusing on conveying President Jacob Zuma's deep passion for education and the Foundation's message of hope and progress.

With that in mind, we created a visual identity for the event that echoed its message of **"Our Youth, Our Future"**. This was carried through every aspect of the event, making it the cornerstone from which to develop the entire look and feel of the event.

We explored a variety of communication channels and platforms, such as PR, Print and Digital Media, to disseminate the message.

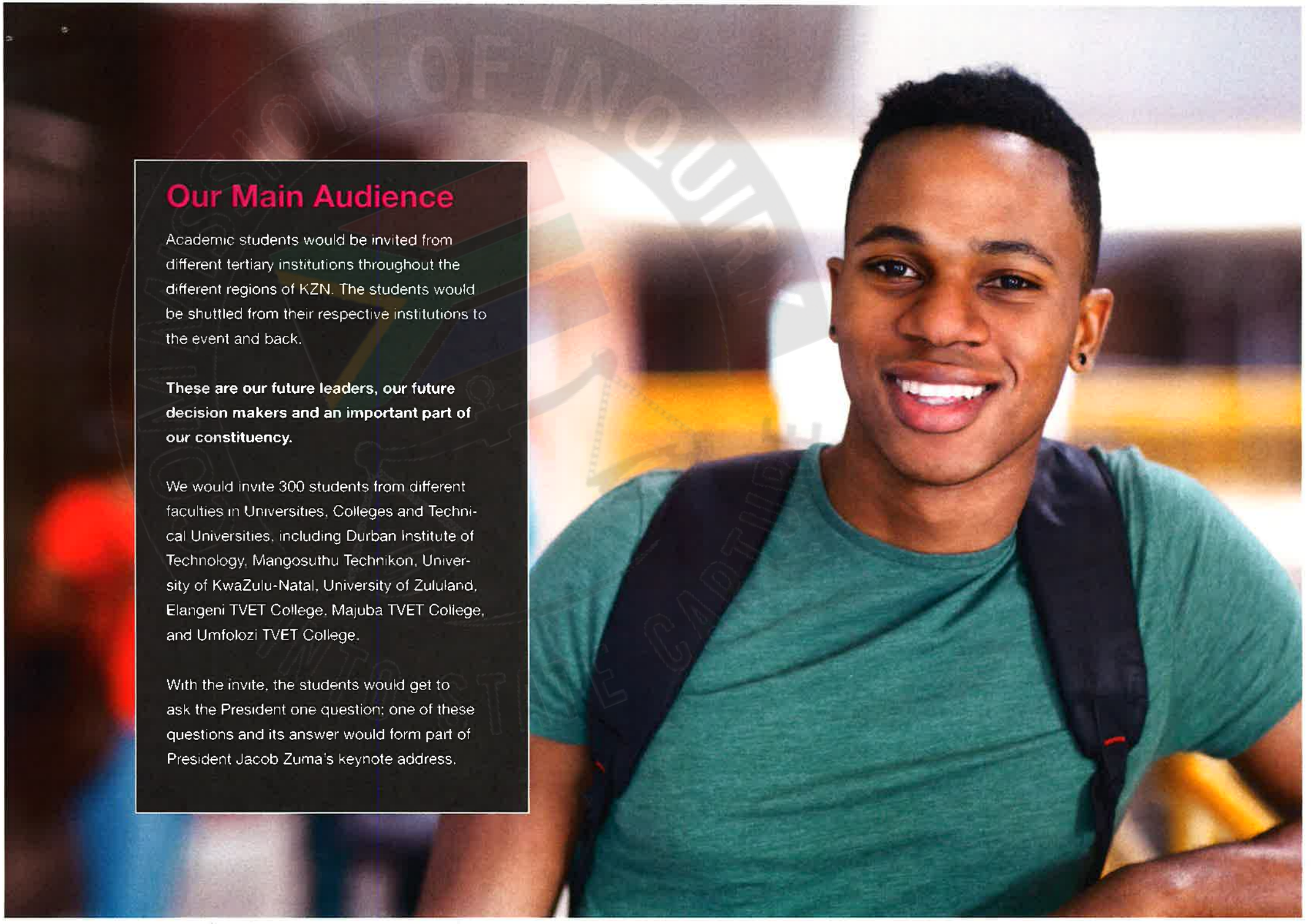
Event Concept

One of the Jacob Zuma Foundation's key focus points is the improvement and accessibility of basic and higher education. The Foundation believes that education forms the backbone of any society. It also believes that, by educating our youth, not only will our economy prosper, but many other societal ills such as crime, HIV, child headed households and drug abuse will be eradicated.

The "Our Youth, Our Future" dinner aims to excite and capture the youth segment during Youth Month by connecting them to and letting them "hanging out" with President Zuma, together with key business leaders within various economical sectors.

This is a chance for these young girls and boys, who are still going thought their tertiary studies, to engage with the President and to connect with their future employers and mentors.

The event will be a report on, and a showcase of, the work that the Jacob Zuma Foundation is doing for the youth within education. The youth will also be encouraged to go back and develop their respective communities in the spirit of the Foundation. The event gives an opportunity for the youth to be in the presence of industry leaders and to interact with them first-hand.



Our Main Audience

Academic students would be invited from different tertiary institutions throughout the different regions of KZN. The students would be shuttled from their respective institutions to the event and back.

These are our future leaders, our future decision makers and an important part of our constituency.

We would invite 300 students from different faculties in Universities, Colleges and Technical Universities, including Durban Institute of Technology, Mangosuthu Technikon, University of KwaZulu-Natal, University of Zululand, Elangeni TVET College, Majuba TVET College, and Umfolozi TVET College.

With the invite, the students would get to ask the President one question; one of these questions and its answer would form part of President Jacob Zuma's keynote address.






MCAT



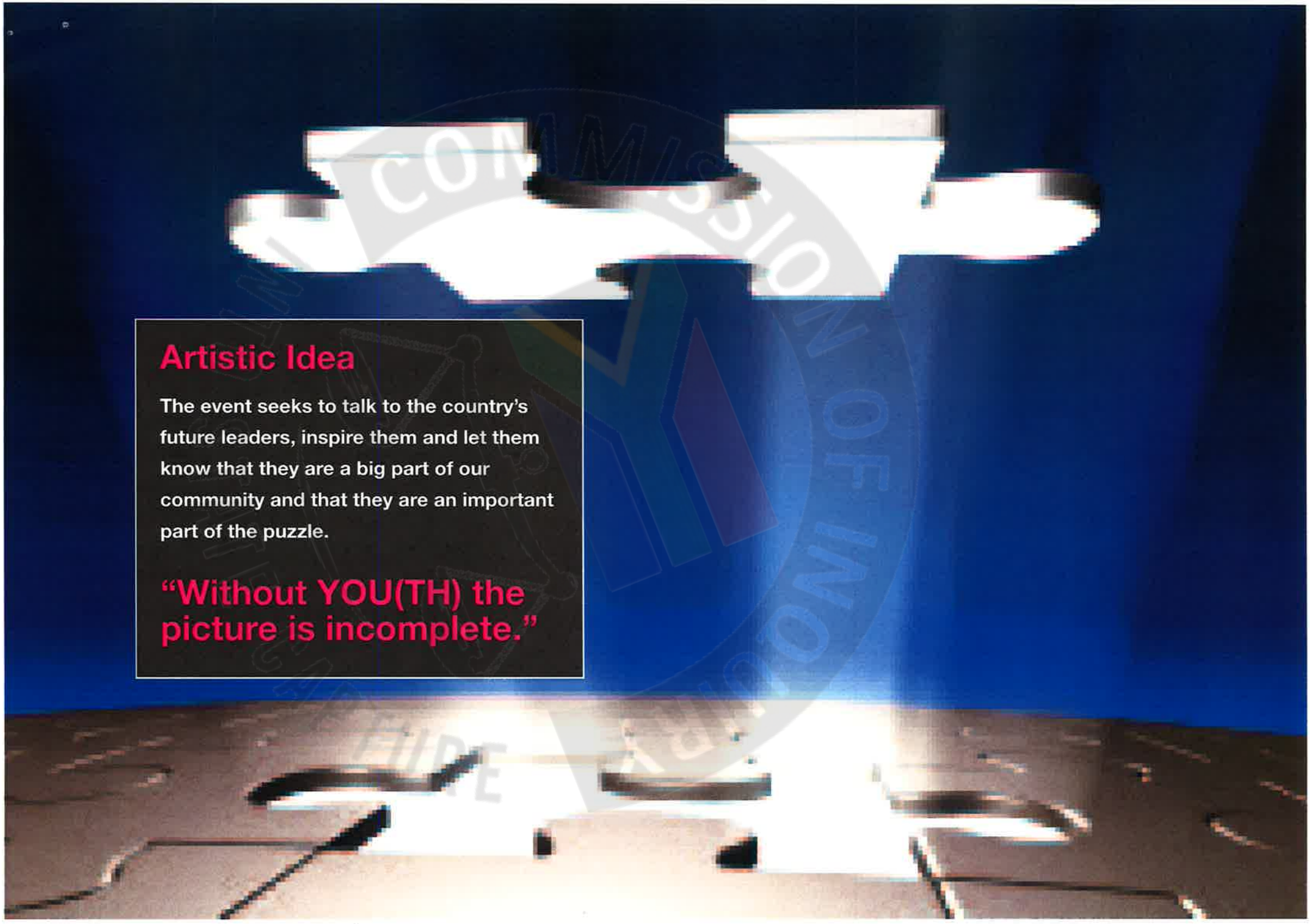












DD34-DCM-1189

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

REFERENCE SPS18/0036/ARN

AFFIDAVIT

I, the undersigned,

KUMARASEN REDDY

state under oath that:

1. I am an adult male who is employed as the Group Manager: Compliance and Regulatory Affairs by Sun International (South Africa) (Pty) Ltd ("**SISA**"), with its principal place of business at 6 Sandown Valley Crescent, Sandton.

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. SISA owns and operates various casinos in the Republic of South Africa. One of these casinos is Afrisun KZN (Pty) Ltd trading as Sibaya Casino and Entertainment Kingdom ("**Sibaya Casino**") which is situated in KwaZulu-Natal.

4. I recently became aware that the above-mentioned Commission issued a summons to Sun International around May 2019 requesting certain information

relating to Ms Dudu Myeni. I understand that the required documents and responses were furnished to the Commission pursuant to the summons.

5. Subsequent to Sun International's responses, the Commission requested further documents relating to Ms. Myeni's presence and gambling on or around 8 October 2019 in particular. The information requested was furnished to the Commission.

6. I was requested by Mr Sphiwe Madlala, one of the investigators of the Commission, by way of an email sent on 17 August 2020 to depose to an affidavit to explain what the documents that were furnished to the Commission by Sibaya Casino meant in relation to Ms Myeni's presence and gambling on the aforementioned date.

7. One of the documents furnished to the Commission is a Credit Card Transaction Report for 07 October 2019. The report reflects transactions of various customers who concluded bank card transactions at Sibaya Casino's Cashdesk on 07 October 2020.

8. The background to the report is as follows: customers are required to register a profile at the casino's Cashdesk to enable them to withdraw funds to purchase table chips or slots credits used for gambling purposes. All transactions concluded at the Cashdesk by Sibaya Casino's customers are thereafter routinely recorded against the corresponding customers' profiles. When customers conclude bank card transactions at the Cashdesk, they are required through routine practice to produce positive identification or they are verified against a copy of their identification document retained by the casino. The report concerned is a system report that was extracted from Sibaya's Casino's computerized Cashdesk system.

9. The report furnished to the Commission reflects that a transaction in the amount of R10,000 (ten thousand Rand) was recorded against Ms Duduzile Myeni's profile at approximately 23:28:55. The bank card details are also captured by the Cashdesk.

10. A copy of the report is attached as annexure "**A**".

KUMARASEN REDDY

The Deponent has acknowledged that the Deponent knows and understands the contents of this affidavit, which was signed and sworn to or solemnly affirmed before me at SANDTON on this the 30TH day of SEPTEMBER 2020, 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: GARETH TERENCE HOWARD

Business address: 1 PROTEA PLACE, SANDOWN, SANDTON

Designation: SENIOR ASSOCIATE AND NOTARY PUBLIC

Capacity: NOTARY PUBLIC

GARETH TERENCE HOWARD
COMMISSIONER OF OATHS
EX OFFICIO
PRACTISING ATTORNEY RSA
1 PROTEA PLACE, SANDTON, JOHANNESBURG

SIBAYA

Report Credit Card Transaction

Locn	PostDtm	Card Name	Player Name	Amount	Card Type	Institution	Remarks	Redeemed	Authorizer	Document No	Cashier	CrDrNumber	Status	Auth Code	ExpiryDt
SBFW02A	Oct-07-2019 05:31:33			R4,000.00	Debit	Nedbank	–	NO	Ms. Nomvelo Celebekhulu	353-002637	Ms. Nomvelo Celebekhulu	5049XXXXXXX X4329	Paid	471155a	8/2024
SBFW02A	Oct-07-2019 06:47:26			R20,000.00	Credit	SBSA	–	NO	Ms. Nomvelo Celebekhulu	353-002638	Ms. Nomvelo Celebekhulu	4548XXXXXXX X3574	Paid	820046a	3/2024
SBFW02A	Oct-07-2019 06:55:27			R10,000.00	Credit	FNB	–	NO	Ms. Nomvelo Celebekhulu	353-002639	Ms. Nomvelo Celebekhulu	4127XXXXXXX X9636	Paid	802848a	7/2021
SBFW04A	Oct-07-2019 07:04:29			R2,000.00	Debit	Standard Bank	–	NO	Ms. Nomfanelo Dumakude	969-731662	Ms. Nomfanelo Dumakude	5196XXXXXXX X7188	Paid	B70394	1/2021
SBFW04A	Oct-07-2019 07:08:12			R2,000.00	Debit	FNB	–	NO	Ms. Nomfanelo Dumakude	969-731663	Ms. Nomfanelo Dumakude	4105XXXXXXX X7229	Paid	402653	8/2022
SBFW05A	Oct-07-2019 07:25:34			R10,000.00	Debit	Nedbank	–	NO	Ms. Tracey Hlatshwayo	353-002640	Ms. Tracey Hlatshwayo	5049XXXXXXX X4329	Paid	586329c	8/2024
SBFW04A	Oct-07-2019 07:27:04			R10,000.00	Debit	FNB	–	NO	Ms. Nomfanelo Dumakude	969-731664	Ms. Nomfanelo Dumakude	4105XXXXXXX X7229	Paid	202768a	8/2022
SBFW04A	Oct-07-2019 08:33:49			R300.00	Debit	Standard Bank	–	NO	Ms. Nomfanelo Dumakude	969-731665	Ms. Nomfanelo Dumakude	5196XXXXXXX X1547	Paid	B13310	6/2021
SBFW05A	Oct-07-2019 08:50:07			R20,000.00	Credit	SBSA	–	NO	Ms. Tracey Hlatshwayo	353-002641	Ms. Tracey Hlatshwayo	5326XXXXXXX X4480	Paid	869825c	1/2023
SBFW01A	Oct-07-2019 09:37:07			R2,000.00	Debit	Nedbank	–	NO	Ms. Ncamsile Madlabane	506-144333	Ms. Ncamsile Madlabane	5049XXXXXXX X4329	Paid	922676B	8/2024
SBFW04A	Oct-07-2019 09:41:01			R20,000.00	Credit	SBSA	–	NO	Ms. Nomfanelo Dumakude	969-731666	Ms. Nomfanelo Dumakude	5326XXXXXXX X4480	Paid	904381a	1/2023
SBFW04A	Oct-07-2019 09:52:07			R5,000.00	Credit	FNB	–	NO	Ms. Nomfanelo Dumakude	969-731667	Ms. Nomfanelo Dumakude	4009XXXXXXX X7977	Paid	803456	5/2022
SBFW04A	Oct-07-2019 10:14:08			R100.00	Credit	Nedbank	–	NO	Ms. Nomfanelo Dumakude	969-731668	Ms. Nomfanelo Dumakude	4923XXXXXXX X5438	Paid	736793	8/2021
SBFW09A	Oct-07-2019 10:17:41			R5,000.00	Debit	ZURCHER	–	NO	Mr. Sechaba Mohapi	356-496406	Mr. Sechaba Mohapi	4483XXXXXXX X0452	Paid	670152A	3/2020
SBFW09A	Oct-07-2019 10:35:17			R5,000.00	Debit	ZURCHER	–	NO	Mr. Sechaba Mohapi	356-496409	Mr. Sechaba Mohapi	4483XXXXXXX X0452	Paid	170345	3/2020

DD34-DCM-1193

SIBAYA

Report Credit Card Transaction

Locn	PostDtm	Card Name	Player Name	Amount	Card Type	Institution	Remarks	Redeemed	Authorizer	Document No	Cashier	CrDrNumber	Status	Auth Code	ExpiryDt
SBFW09A	Oct-07-2019 10:37:12	[redacted]		R4,000.00	Credit	FNB	–	NO	Mr. Sechaba Mohapi	356-496410	Mr. Sechaba Mohapi	4901XXXXXXXX2077	Paid	738201	9/2020
SBFW09A	Oct-07-2019 10:39:30			R10,000.00	Credit	FNB	–	NO	Mr. Sechaba Mohapi	356-496411	Mr. Sechaba Mohapi	4009XXXXXXXX7977	Paid	303381	5/2022
SBFW05A	Oct-07-2019 10:51:44			R200.00	Credit	Captitol One	–	NO	Ms. Tracey Hlatshwayo	353-002642	Ms. Tracey Hlatshwayo	5284XXXXXXXX7058	Paid	644355c	11/2022
SBFW05A	Oct-07-2019 11:01:10			R200.00	Debit	Wells Fargo	–	NO	Ms. Tracey Hlatshwayo	353-002643	Ms. Tracey Hlatshwayo	4451XXXXXXXX0061	Paid	571003	4/2021
SBFW04A	Oct-07-2019 11:03:21			R800.00	Credit	Captitol One	–	NO	Ms. Nomfanelo Dumakude	969-731669	Ms. Nomfanelo Dumakude	5284XXXXXXXX5263	Paid	358194	1/2025
SBFW09A	Oct-07-2019 11:23:11			R5,000.00	Credit	Captitol One	–	NO	Mr. Sechaba Mohapi	356-496413	Mr. Sechaba Mohapi	5284XXXXXXXX2369	Paid	749882A	9/2023
SBFW06A	Oct-07-2019 11:24:43			R500.00	Credit	Captitol One	–	NO	Ms. Kamantha Munsami	359-969815	Ms. Kamantha Munsami	5284XXXXXXXX6080	Paid	043460	5/2025
SBFW06A	Oct-07-2019 11:28:09			R2,000.00	Credit	TOP CARD SERV	–	NO	Ms. Kamantha Munsami	359-969817	Ms. Kamantha Munsami	4483XXXXXXXX4393	Paid	571273	8/2022
SBFW01A	Oct-07-2019 11:37:14			R200.00	Credit	Captitol One	–	NO	Ms. Ncamsile Madlabane	506-144334	Ms. Ncamsile Madlabane	5284XXXXXXXX5283	Paid	294330B	1/2025
SBFW06A	Oct-07-2019 11:42:56			R1,000.00	Debit	Standard Bank	–	NO	Ms. Kamantha Munsami	359-969818	Ms. Kamantha Munsami	5196XXXXXXXX5326	Paid	B14274	5/2024
SBFW09A	Oct-07-2019 12:01:08			R10,000.00	Credit	FNB	–	NO	Mr. Sechaba Mohapi	356-496415	Mr. Sechaba Mohapi	4707XXXXXXXX4529	Paid	304238	11/2021
SBFW06A	Oct-07-2019 12:04:28			R3,000.00	Credit	Nedbank	–	NO	Ms. Kamantha Munsami	359-969820	Ms. Kamantha Munsami	5412XXXXXXXX4291	Paid	743435	3/2020
SBFW04A	Oct-07-2019 12:15:54			R500.00	Credit	USBank	–	NO	Ms. Nomfanelo Dumakude	969-731670	Ms. Nomfanelo Dumakude	4550XXXXXXXX5010	Paid	074112	3/2020
SBFW10A	Oct-07-2019 12:16:16			R5,000.00	Credit	SBSA	–	NO	Ms. Duduzile Chiliza	363-793334	Ms. Duduzile Chiliza	5239XXXXXXXX7719	Paid	651187aa	5/2023
SBFW04A	Oct-07-2019 12:37:33			R4,000.00	Credit	USBank	–	NO	Ms. Nomfanelo Dumakude	969-731671	Ms. Nomfanelo Dumakude	4787XXXXXXXX3016	Paid	075417	2/2021
SBFW06A	Oct-07-2019 12:46:44			R600.00	Debit	Standard Bank	–	NO	Ms. Kamantha Munsami	359-969821	Ms. Kamantha Munsami	5196XXXXXXXX5326	Paid	B84621	5/2024

DD34-DCM-1194

SIBAYA

Report Credit Card Transaction

Locn	PostDtm	Card Name	Player Name	Amount	Card Type	Institution	Remarks	Redeemed	Authorizer	Document No	Cashier	CrDrNumber	Status	Auth Code	ExpiryDt
SBFW09A	Oct-07-2019 12:46:58			R1,600.00	Credit	FNB	--	NO	Mr. Sechaba Mohapi	356-496417	Mr. Sechaba Mohapi	4483XXXXXXX X2018	Paid	745980	2/2022
SBFW06A	Oct-07-2019 12:52:13			R40,000.00	Credit	Captitol One	--	NO	Mr. Johannes Sindane	359-989823	Ms. Kamantha Munsami	5284XXXXXXX X5828	Paid	614198	1/2025
SBFW01A	Oct-07-2019 12:56:30			R5,000.00	Credit	USBank	--	NO	Ms. Ncamsile Madlabane	506-144335	Ms. Ncamsile Madlabane	4787XXXXXXX X3019	Paid	076553b	7/2020
SBFW05A	Oct-07-2019 13:02:24			R400.00	Credit	USBank	--	NO	Ms. Tracey Hlatshwayo	363-002645	Ms. Tracey Hlatshwayo	4550XXXXXXX X5010	Paid	076917	3/2020
SBFW04A	Oct-07-2019 13:05:20			R500.00	Credit	FNB	--	NO	Ms. Nomfanelo Dumakude	969-731672	Ms. Nomfanelo Dumakude	4601XXXXXXX X8062	Paid	746958	12/2019
SBFW04A	Oct-07-2019 13:12:51			R5,000.00	Credit	TOP CARD SERV	--	NO	Ms. Nomfanelo Dumakude	969-731673	Ms. Nomfanelo Dumakude	4606XXXXXXX X3063	Paid	747531	6/2023
SBFW09A	Oct-07-2019 13:28:43			R10,000.00	Credit	SBSA	--	NO	Mr. Sechaba Mohapi	356-496419	Mr. Sechaba Mohapi	4548XXXXXXX X5916	Paid	154158	5/2022
SBFW10A	Oct-07-2019 13:32:16			R10,000.00	Credit	FNB	--	NO	Ms. Duduzile Chiliza	363-793337	Ms. Duduzile Chiliza	4578XXXXXXX X3020	Paid	104784a	8/2022
SBFW10A	Oct-07-2019 13:34:29			R5,000.00	Credit	SBSA	--	NO	Ms. Duduzile Chiliza	363-793338	Ms. Duduzile Chiliza	5520XXXXXXX X2347	Paid	634974a	3/2024
SBFW09A	Oct-07-2019 13:35:47			R5,000.00	Credit	SBSA	--	NO	Mr. Sechaba Mohapi	356-496420	Mr. Sechaba Mohapi	5239XXXXXXX X7719	Paid	651587	5/2023
SBFW10A	Oct-07-2019 13:43:09			R10,000.00	Credit	SBSA	--	NO	Ms. Duduzile Chiliza	363-793339	Ms. Duduzile Chiliza	5520XXXXXXX X2347	Paid	624932a	3/2024
SBFW09A	Oct-07-2019 13:45:05			R5,000.00	Credit	FNB	--	NO	Mr. Sechaba Mohapi	356-496421	Mr. Sechaba Mohapi	4707XXXXXXX X9146	Paid	504498	10/2021
SBFW09A	Oct-07-2019 13:51:31			R2,000.00	Credit	FNB	--	NO	Mr. Sechaba Mohapi	356-496422	Mr. Sechaba Mohapi	4707XXXXXXX X9146	Paid	204891	10/2021
SBFW10A	Oct-07-2019 13:53:06			R5,000.00	Credit	Nedbank	--	NO	Ms. Duduzile Chiliza	363-793340	Ms. Duduzile Chiliza	5412XXXXXXX X3184	Paid	749967a	3/2020
SBFW09A	Oct-07-2019 13:55:46			R4,000.00	Credit	TOP CARD SERV	--	NO	Mr. Sechaba Mohapi	356-496423	Mr. Sechaba Mohapi	4606XXXXXXX X5960	Paid	750120	8/2021
SBFW10A	Oct-07-2019 13:57:37			R10,000.00	Credit	FNB	--	NO	Ms. Duduzile Chiliza	363-793341	Ms. Duduzile Chiliza	4578XXXXXXX X3020	Paid	305202a	8/2022

DD34-DCM-1195

SIBAYA
CASINO & ENTERTAINMENT KWAZULU

Report Credit Card Transaction

Locn	PostDtm	Card Name	Player Name	Amount	Card Type	Institution	Remarks	Redeemed	Authorizer	Document No	Cashier	CrDrNumber	Status	Auth Code	ExpiryDt
SBFW09A	Oct-07-2019 14:00:58			R5,000.00	Credit	FNB	--	NO	Mr. Sechaba Mohapi	356-496424	Mr. Sechaba Mohapi	4707XXXXXXXX9146	Paid	705306c	10/2021
SBFW09A	Oct-07-2019 14:02:07			R10,000.00	Credit	SBSA	--	NO	Mr. Sechaba Mohapi	356-496425	Mr. Sechaba Mohapi	5520XXXXXXXX2347	Paid	613500	3/2024
SBFW09A	Oct-07-2019 14:08:24			R5,000.00	Credit	FNB	--	NO	Mr. Sechaba Mohapi	356-496426	Mr. Sechaba Mohapi	4707XXXXXXXX9146	Paid	605603	10/2021
SBFW10A	Oct-07-2019 14:13:35			R10,000.00	Credit	SBSA	--	NO	Ms. Duduzile Chiliza	363-793342	Ms. Duduzile Chiliza	5520XXXXXXXX2347	Paid	631437aa	3/2024
SBFW01A	Oct-07-2019 14:14:42			R10,000.00	Credit	TOP CARD SERV	--	NO	Ms. Ncamsile Madlabane	506-144336	Ms. Ncamsile Madlabane	4606XXXXXXXX3063	Paid	751251b	6/2023
SBFW10A	Oct-07-2019 14:18:42			R10,000.00	Credit	FNB	--	NO	Ms. Duduzile Chiliza	363-793343	Ms. Duduzile Chiliza	4707XXXXXXXX9146	Paid	705419a	10/2021
SBFW04A	Oct-07-2019 14:20:16			R500.00	Credit	FNB	--	NO	Ms. Nomfanelo Dumakude	969-731674	Ms. Nomfanelo Dumakude	4901XXXXXXXX3016	Paid	751558	11/2020
SBFW10A	Oct-07-2019 14:32:20			R10,000.00	Credit	SBSA	--	NO	Ms. Duduzile Chiliza	363-793344	Ms. Duduzile Chiliza	5222XXXXXXXX8496	Paid	916047a	9/2020
SBFW10A	Oct-07-2019 14:33:55			R5,000.00	Credit	FNB	--	NO	Ms. Duduzile Chiliza	363-793346	Ms. Duduzile Chiliza	4578XXXXXXXX3020	Paid	005422a	8/2022
SBFW10A	Oct-07-2019 14:35:56			R2,000.00	Debit	ZURCHER	--	NO	Ms. Duduzile Chiliza	363-793346	Ms. Duduzile Chiliza	4483XXXXXXXX0452	Paid	574353a	3/2020
SBFW10A	Oct-07-2019 14:40:55			R10,000.00	Credit	SBSA	--	NO	Ms. Duduzile Chiliza	363-793347	Ms. Duduzile Chiliza	5222XXXXXXXX8496	Paid	929174a	9/2020
SBFW10A	Oct-07-2019 14:42:35			R10,000.00	Credit	FNB	--	NO	Ms. Duduzile Chiliza	363-793348	Ms. Duduzile Chiliza	4707XXXXXXXX9146	Paid	105929a	10/2021
SBFW10A	Oct-07-2019 14:44:58			R10,000.00	Credit	SBSA	--	NO	Ms. Duduzile Chiliza	363-793349	Ms. Duduzile Chiliza	5520XXXXXXXX2347	Paid	644049aa	3/2024
SBFW10A	Oct-07-2019 14:47:31			R5,000.00	Credit	SBSA	--	NO	Ms. Duduzile Chiliza	363-793350	Ms. Duduzile Chiliza	5326XXXXXXXX1294	Paid	938206a	10/2024
SBFW10A	Oct-07-2019 14:48:39			R5,000.00	Debit	Nedbank	--	NO	Ms. Duduzile Chiliza	363-793351	Ms. Duduzile Chiliza	5229XXXXXXXX0621	Paid	753293a	6/2025

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Report Credit Card Transaction

Locn	PostDtm	Card Name	Player Name	Amount	Card Type	Institution	Remarks	Redeemed	Authorizer	Document No	Cashier	CrDrNumber	Status	Auth Code	ExpiryDt
SBFW10A	Oct-07-2019 14:51:33	[redacted]		R5,000.00	Credit	FNB	–	NO	Ms. Duduzile Chiliza	363-793353	Ms. Duduzile Chiliza	4901XXXXXXX X5012	Paid	753464a	1/2020
SBFW07A	Oct-07-2019 14:51:58			R2,500.00	Credit	FNB	–	NO	Mrs. Ranjeni Govender	365-788374	Mrs. Ranjeni Govender	4009XXXXXXX X6201	Paid	105438a	5/2022
SBFW10A	Oct-07-2019 14:52:54			R10,000.00	Credit	FNB	–	NO	Ms. Duduzile Chiliza	363-793352	Ms. Duduzile Chiliza	4707XXXXXXX X9146	Paid	805336a	10/2021
SBFW10A	Oct-07-2019 15:02:09			R10,000.00	Credit	FNB	–	NO	Ms. Duduzile Chiliza	363-793355	Ms. Duduzile Chiliza	4707XXXXXXX X9146	Paid	805046a	10/2021
SBFW10A	Oct-07-2019 15:03:36			R10,000.00	Credit	TOP CARD SERV	–	NO	Ms. Duduzile Chiliza	363-793356	Ms. Duduzile Chiliza	4606XXXXXXX X3063	Paid	754192a	6/2023
SBFW02B	Oct-07-2019 15:13:12			R600.00	Credit	SBSA	–	NO	Ms. Sinegugu Tshecwa	506-144337	Ms. Sinegugu Tshecwa	5222XXXXXXX X8925	Paid	978001	8/2024
SBFW08B	Oct-07-2019 15:15:53			R10,000.00	Credit	TOP CARD SERV	–	NO	Mr. Asavela Mdodana	363-793357	Mr. Asavela Mdodana	4606XXXXXXX X3063	Paid	754919	6/2023
SBFW09B	Oct-07-2019 15:18:30			R1,500.00	Credit	TOP CARD SERV	–	NO	Mr. Asavela Mdodana	363-793358	Mr. Asavela Mdodana	4483XXXXXXX X0638	Paid	675174	5/2021
SBFW09A	Oct-07-2019 15:24:37			R15,000.00	Credit	FNB	–	NO	Mr. Sechaba Mohapi	356-496427	Mr. Sechaba Mohapi	4707XXXXXXX X9146	Paid	496427	10/2021
SBFW09B	Oct-07-2019 15:26:04			R5,000.00	Debit	Standard Bank	–	NO	Mr. Asavela Mdodana	363-793359	Mr. Asavela Mdodana	5359XXXXXXX X5553	Paid	B52601	1/2024
SBFW09A	Oct-07-2019 15:26:57			R20,000.00	Debit	ZURCHER	–	NO	Mr. Sechaba Mohapi	356-496428	Mr. Sechaba Mohapi	4483XXXXXXX X2483	Paid	875255	10/2021
SBFW03B	Oct-07-2019 15:28:07			R500.00	Debit	Wells Fargo	–	NO	Ms. Sitholile Xulu	969-731675	Ms. Sitholile Xulu	4451XXXXXXX X8901	Paid	675273	10/2022
SBFW09A	Oct-07-2019 15:30:01			R10,000.00	Credit	FNB	–	NO	Mr. Sechaba Mohapi	356-496429	Mr. Sechaba Mohapi	4901XXXXXXX X1088	Paid	755753	10/2021
SBFW09B	Oct-07-2019 15:31:23			R20,000.00	Credit	FNB	–	NO	Mr. Asavela Mdodana	363-793360	Mr. Asavela Mdodana	4707XXXXXXX X8784	Paid	405853	9/2021
SBFW03B	Oct-07-2019 15:33:56			R400.00	Credit	SBSA	–	NO	Ms. Sitholile Xulu	969-731676	Ms. Sitholile Xulu	5222XXXXXXX X8925	Paid	007971	8/2024
SBFW09A	Oct-07-2019 15:35:01			R5,000.00	Credit	FNB	–	NO	Mr. Sechaba Mohapi	356-496430	Mr. Sechaba Mohapi	4707XXXXXXX X9146	Paid	405060A	10/2021

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Report Credit Card Transaction

Locn	PostDtm	Card Name	Player Name	Amount	Card Type	Institution	Remarks	Redeemed	Authorizer	Document No	Cashier	CrDrNumber	Status	Auth Code	ExpiryDt
SBFW01B	Oct-07-2019 15:35:37			R250.00	Credit	Nedbank	--	NO	Ms. Nozipho Mlaba	357-804897	Ms. Nozipho Mlaba	5179XXXXXXXX5720	Paid	756019	3/2024
SBFW09B	Oct-07-2019 15:35:41			R1,000.00	Credit	TOP CARD SERV	--	NO	Mr. Asavela Mdodana	363-793362	Mr. Asavela Mdodana	4483XXXXXXXX0638	Paid	175351	5/2021
SBFW09B	Oct-07-2019 15:43:24			R5,000.00	Debit	Albaraka	--	NO	Mr. Asavela Mdodana	363-793363	Mr. Asavela Mdodana	4853XXXXXXXX9339	Paid	154253	11/2020
SBFW06A	Oct-07-2019 15:47:23			R450.00	Credit	Captitol One	--	NO	Ms. Kamantha Munsami	359-969824	Ms. Kamantha Munsami	5284XXXXXXXX8277	Paid	893546	9/2024
SBFW09B	Oct-07-2019 15:48:44			R5,000.00	Credit	Nedbank	--	NO	Mr. Asavela Mdodana	363-793364	Mr. Asavela Mdodana	5181XXXXXXXX5644	Paid	756687	12/2019
SBFW09A	Oct-07-2019 15:51:57			R20,000.00	Debit	ZURCHER	--	NO	Mr. Sechaba Mohapi	356-496431	Mr. Sechaba Mohapi	4483XXXXXXXX2483	Paid	475510	10/2021
SBFW09A	Oct-07-2019 15:56:25			R10,000.00	Credit	FNB	--	NO	Mr. Sechaba Mohapi	356-496432	Mr. Sechaba Mohapi	4009XXXXXXXX0361	Paid	205379	7/2022
SBFW09B	Oct-07-2019 15:57:48			R20,000.00	Credit	FNB	--	NO	Mr. Asavela Mdodana	363-793366	Mr. Asavela Mdodana	4009XXXXXXXX3268	Paid	205474p	9/2022
SBFW04B	Oct-07-2019 15:59:43			R249.00	Credit	SBSA	--	NO	Ms. Nothando Shangase	353-002648	Ms. Nothando Shangase	5239XXXXXXXX6203	Paid	691811	11/2022
SBFW09B	Oct-07-2019 16:03:12			R10,000.00	Credit	FNB	--	NO	Mr. Asavela Mdodana	363-793367	Mr. Asavela Mdodana	4009XXXXXXXX3268	Paid	605779	9/2022
SBFW09A	Oct-07-2019 16:05:04			R10,000.00	Credit	SBSA	--	NO	Mr. Sechaba Mohapi	356-496433	Mr. Sechaba Mohapi	5326XXXXXXXX2748	Paid	'060152	7/2023
SBFW09B	Oct-07-2019 16:08:48			R5,000.00	Credit	USBank	--	NO	Mr. Asavela Mdodana	363-793368	Mr. Asavela Mdodana	4550XXXXXXXX2015	Paid	'078090	8/2022
SBFW09A	Oct-07-2019 16:09:17			R1,000.00	Credit	TOP CARD SERV	--	NO	Mr. Sechaba Mohapi	356-496434	Mr. Sechaba Mohapi	4483XXXXXXXX0638	Paid	578083	5/2021
SBFW04B	Oct-07-2019 16:14:37			R500.00	Credit	Nedbank	--	NO	Ms. Nothando Shangase	353-002649	Ms. Nothando Shangase	5181XXXXXXXX5290	Paid	758432	7/2021
SBFW09B	Oct-07-2019 16:16:05			R5,000.00	Debit	Standard Bank	--	NO	Mr. Asavela Mdodana	363-793369	Mr. Asavela Mdodana	5359XXXXXXXX5553	Paid	B61603	1/2024

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Report Credit Card Transaction

Locn	PostDtm	Card Name	Player Name	Amount	Card Type	Institution	Remarks	Redeemed	Authorizer	Document No	Cashier	CrDrNumber	Status	Auth Code	ExpiryDt
SBFW09A	Oct-07-2019 16:18:09			R20,000.00	Credit	SBSA	--	NO	Mr. Sechaba Mohapi	356-496435	Mr. Sechaba Mohapi	5326XXXXXXX X1294	Paid	353389	10/2024
SBFW09B	Oct-07-2019 16:19:20			R5,000.00	Credit	FNB	--	NO	Mr. Asavela Mdodana	363-793371	Mr. Asavela Mdodana	4009XXXXXXX X1307	Paid	305762	7/2022
SBFW09A	Oct-07-2019 16:23:31			R10,000.00	Credit	TOP CARD SERV	--	NO	Mr. Sechaba Mohapi	356-496436	Mr. Sechaba Mohapi	4606XXXXXXX X3063	Paid	758958	6/2023
SBFW09B	Oct-07-2019 16:45:14			R6,000.00	Credit	SBSA	--	NO	Mr. Asavela Mdodana	363-793372	Mr. Asavela Mdodana	5520XXXXXXX X2347	Paid	644860	3/2024
SBFW03B	Oct-07-2019 16:49:02			R249.00	Credit	SBSA	--	NO	Ms. Sitholile Xulu	969-731677	Ms. Sitholile Xulu	5222XXXXXXX X6926	Paid	142618	4/2024
SBFW06A	Oct-07-2019 16:55:35			R800.00	Credit	Amex	--	NO	Ms. Kamantha Munsami	359-969825	Ms. Kamantha Munsami	3771XXXXXXX X584	Paid	760895	3/2020
SBFW09B	Oct-07-2019 16:57:00			R5,000.00	Credit	FNB	--	NO	Mr. Asavela Mdodana	363-793373	Mr. Asavela Mdodana	4707XXXXXXX X6784	Paid	806906p	9/2021
SBFW06A	Oct-07-2019 16:59:37			R500.00	Credit	Capitol One	--	NO	Ms. Kamantha Munsami	359-969826	Ms. Kamantha Munsami	5284XXXXXXX X1437	Paid	079623	6/2022
SBFW09B	Oct-07-2019 17:02:14			R1,000.00	Credit	TOP CARD SERV	--	NO	Mr. Asavela Mdodana	363-793374	Mr. Asavela Mdodana	4483XXXXXXX X0638	Paid	777014	5/2021
SBFW03B	Oct-07-2019 17:11:11			R2,000.00	Credit	FNB	--	NO	Ms. Sitholile Xulu	969-731678	Ms. Sitholile Xulu	4057XXXXXXX X8532	Paid	306811	8/2022
SBFW04B	Oct-07-2019 17:12:11			R249.00	Credit	FNB	--	NO	Ms. Nothando Shangase	353-002652	Ms. Nothando Shangase	4105XXXXXXX X6134	Paid	606810b	9/2022
SBFW03B	Oct-07-2019 17:16:57			R2,000.00	Credit	FNB	--	NO	Ms. Sitholile Xulu	969-731679	Ms. Sitholile Xulu	4009XXXXXXX X4462	Paid	806126	6/2021
SBFW01B	Oct-07-2019 17:18:22			R250.00	Credit	USBank	--	NO	Ms. Nozipho Mlaba	357-804698	Ms. Nozipho Mlaba	4550XXXXXXX X0012	Paid	072182a	1/2020
SBFW04B	Oct-07-2019 17:19:08			R1,500.00	Debit	ZURCHER	--	NO	Ms. Nothando Shangase	353-002653	Ms. Nothando Shangase	4483XXXXXXX X6021	Paid	477183	6/2023
SBFW07A	Oct-07-2019 17:20:21			R2,000.00	Credit	SBSA	--	NO	Mrs. Ranjeni Govender	365-788376	Mrs. Ranjeni Govender	5326XXXXXXX X7220	Paid	202262a	9/2021

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Report Credit Card Transaction

Locn	PostDtm	Card Name	Player Name	Amount	Card Type	Institution	Remarks	Redeemed	Authorizer	Document No	Cashier	CrDrNumber	Status	Auth Code	ExpiryDt
SBFW09A	Oct-07-2019 17:22:10			R10,000.00	Debit	FNB	–	NO	Mr. Sechaba Mohapi	356-496438	Mr. Sechaba Mohapi	4841XXXXXXX X6985	Paid	90642 5C	3/2020
SBFW03B	Oct-07-2019 17:22:40			R600.00	Debit	ABSA	–	NO	Ms. Sitholile Xulu	969-731680	Ms. Sitholile Xulu	4483XXXXXXX X7053	Paid	87722 0	7/2023
SBFW04B	Oct-07-2019 17:23:04			R1,000.00	Debit	Standard Bank	–	NO	Ms. Nothando Shangase	353-002654	Ms. Nothando Shangase	5196XXXXXXX X2337	Paid	87228 0a	1/2021
SBFW06A	Oct-07-2019 17:23:25			R1,500.00	Credit	USBank	–	NO	Ms. Kamantha Munsami	359-969827	Ms. Kamantha Munsami	4550XXXXXXX X5016	Paid	07257 2	11/2022
SBFW07A	Oct-07-2019 17:38:35			R600.00	Debit	Nedbank	–	NO	Mrs. Ranjeni Govender	365-788377	Mrs. Ranjeni Govender	5229XXXXXXX X2209	Paid	76349 1aa	9/2023
SBFW03B	Oct-07-2019 17:45:18			R2,500.00	Credit	Nedbank	–	NO	Ms. Sitholile Xulu	969-731681	Ms. Sitholile Xulu	4314XXXXXXX X3710	Paid	76389 1	4/2021
SBFW07A	Oct-07-2019 17:51:45			R1,000.00	Credit	FNB	–	NO	Mrs. Ranjeni Govender	365-788378	Mrs. Ranjeni Govender	4578XXXXXXX X5474	Paid	70624 7a	7/2023
SBFW09A	Oct-07-2019 17:51:56			R50,000.00	Credit	FNB	–	NO	Mr. Deenadayalan Naicker	356-496437	Mr. Sechaba Mohapi	4707XXXXXXX X3677	Paid	50610 6C	12/2020
SBFW01B	Oct-07-2019 17:54:56			R3,000.00	Debit	Nedbank	–	NO	Ms. Nozipho Mlaba	357-804899	Ms. Nozipho Mlaba	5229XXXXXXX X0255	Paid	76444 0	5/2023
SBFW09A	Oct-07-2019 18:03:09			R10,000.00	Credit	FNB	–	NO	Ms. Petronella Gumede	356-496414	Ms. Petronella Gumede	4707XXXXXXX X4529	Paid	10471 2	11/2021
SBFW07A	Oct-07-2019 18:04:23			R2,000.00	Debit	ZURCHER	–	NO	Mrs. Ranjeni Govender	365-788379	Mrs. Ranjeni Govender	4483XXXXXXX X7739	Paid	17803 5a	9/2021
SBFW02B	Oct-07-2019 18:15:51			R20,000.00	Credit	Capitol One	–	NO	Ms. Sinegugu Tshecwa	506-144338	Ms. Sinegugu Tshecwa	5284XXXXXXX X6078	Paid	39429 8	10/2024
SBFW02B	Oct-07-2019 18:24:16			R200.00	Credit	Nedbank	–	NO	Ms. Sinegugu Tshecwa	506-144339	Ms. Sinegugu Tshecwa	5412XXXXXXX X7270	Paid	76621 9	6/2022
SBFW03B	Oct-07-2019 18:25:40			R249.00	Credit	SBSA	–	NO	Ms. Sitholile Xulu	696-731682	Ms. Sitholile Xulu	5222XXXXXXX X6990	Paid	51947 5	3/2024
SBFW07A	Oct-07-2019 18:29:09			R249.00	Debit	Wells Fargo	–	NO	Mrs. Ranjeni Govender	365-777380	Mrs. Ranjeni Govender	4451XXXXXXX X0455	Paid	47828 2aa	

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CASINO & ENTERTAINMENT KWAZULU

Report Credit Card Transaction

Locn	PostDtm	Card Name	Player Name	Amount	Card Type	Institution	Remarks	Redeemed	Authorizer	Document No	Cashier	CrDrNumber	Status	Auth Code	ExpiryDt
SBFW10A	Oct-07-2019 18:30:48			R20,000.00	Debit	PL	--	NO	Ms. Duduzile Chiliza	363-793375	Ms. Duduzile Chiliza	4751XXXXXXX7822	Paid	573528a	5/2022
SBFW10A	Oct-07-2019 18:35:01			R10,000.00	Credit	FNB	--	NO	Ms. Duduzile Chiliza	363-706863	Ms. Duduzile Chiliza	4009XXXXXXX0349	Paid	793377a	4/2021
SBFW01B	Oct-07-2019 18:39:12			R250.00	Debit	Standard Bank	--	NO	Ms. Nozipho Mlaba	357-804900	Ms. Nozipho Mlaba	5359XXXXXXX1846	Paid	B08895	4/2023
SBFW02B	Oct-07-2019 18:39:20			R249.00	Debit	Wells Fargo	--	NO	Ms. Sinegugu Tshecwa	506-144340	Ms. Sinegugu Tshecwa	5262XXXXXXX1550	Paid	778969	6/2022
SBFW07A	Oct-07-2019 18:47:08			R5,000.00	Credit	FNB	--	NO	Mrs. Ranjeni Govender	365-788381	Mrs. Ranjeni Govender	4483XXXXXXX0011	Paid	767589a	6/2021
SBFW04B	Oct-07-2019 18:51:59			R700.00	Debit	Standard Bank	--	NO	Ms. Nothando Shangase	353-002655	Ms. Nothando Shangase	5196XXXXXXX9243	Paid	B55059	7/2024
SBFW01B	Oct-07-2019 18:54:01			R5,000.00	Credit	Nedbank	--	NO	Ms. Nozipho Mlaba	357-804901	Ms. Nozipho Mlaba	4314XXXXXXX9052	Paid	768004	7/2024
SBFW10A	Oct-07-2019 18:59:45			R3,000.00	Credit	FNB	--	NO	Ms. Duduzile Chiliza	363-793379	Ms. Duduzile Chiliza	4009XXXXXXX0361	Paid	706380a	7/2022
SBFW07A	Oct-07-2019 19:01:20			R3,000.00	Debit	NEDBANK	--	NO	Mrs. Ranjeni Govender	365-788382	Mrs. Ranjeni Govender	4059XXXXXXX3915	Paid	768449aa	7/2022
SBFW02B	Oct-07-2019 19:01:21			R1,000.00	Debit	Standard Bank	--	NO	Ms. Sinegugu Tshecwa	506-144341	Ms. Sinegugu Tshecwa	5196XXXXXXX3727	Paid	B90107B	5/2020
SBFW10A	Oct-07-2019 19:02:38			R4,000.00	Credit	FNB	--	NO	Ms. Duduzile Chiliza	363-793380	Ms. Duduzile Chiliza	4578XXXXXXX3625	Paid	206584a	4/2021
SBFW07A	Oct-07-2019 19:04:44			R5,000.00	Credit	FNB	--	NO	Mrs. Ranjeni Govender	365-788383	Mrs. Ranjeni Govender	4483XXXXXXX3019	Paid	768656a	8/2022
SBFW10A	Oct-07-2019 19:07:02			R5,000.00	Credit	FNB	--	NO	Ms. Duduzile Chiliza	363-793381	Ms. Duduzile Chiliza	4009XXXXXXX0361	Paid	406785a	7/2022
SBFW10A	Oct-07-2019 19:11:04			R3,000.00	Credit	USBank	--	NO	Ms. Duduzile Chiliza	363-793383	Ms. Duduzile Chiliza	4103XXXXXXX5019	Paid	079042aa	8/2022

COMMISSION FUTURE

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Report Credit Card Transaction

Locn	PostDtm	Card Name	Player Name	Amount	Card Type	Institution	Remarks	Redeemed	Authorizer	Document No	Cashier	CrDrNumber	Status	Auth Code	ExpiryDt
SBFW02B	Oct-07-2019 19:11:07			R249.00	Credit	FNB	–	NO	Ms. Sinegugu Tshecwa	506-144342	Ms. Sinegugu Tshecwa	4043XXXXXXXX9018	Paid	76894 3a	11/2021
SBFW10A	Oct-07-2019 19:13:10			R6,000.00	Debit	FNB	–	NO	Ms. Duduzile Chiliza	363-793382	Ms. Duduzile Chiliza	4841XXXXXXXX6985	Paid	20688 4a	3/2020
SBFW10A	Oct-07-2019 19:14:04			R5,000.00	Credit	FNB	–	NO	Ms. Duduzile Chiliza	363-793384	Ms. Duduzile Chiliza	4009XXXXXXXX0361	Paid	20619 9a	7/2022
SBFW04B	Oct-07-2019 19:24:09			R2,000.00	Credit	SBSA	–	NO	Ms. Nothando Shangase	353-002656	Ms. Nothando Shangase	5520XXXXXXXX1984	Paid	63091 2	8/2022
SBFW10A	Oct-07-2019 19:24:34			R8,000.00	Credit	FNB	–	NO	Ms. Duduzile Chiliza	363-793385	Ms. Duduzile Chiliza	4901XXXXXXXX1104	Paid	76984 9a	5/2022
SBFW02B	Oct-07-2019 19:25:47			R2,000.00	Credit	Nedbank	–	NO	Ms. Sinegugu Tshecwa	506-144345	Ms. Sinegugu Tshecwa	5412XXXXXXXX2849	Paid	76991 1	11/2021
SBFW04B	Oct-07-2019 19:31:29			R3,000.00	Credit	SBSA	–	NO	Ms. Nothando Shangase	353-002658	Ms. Nothando Shangase	5328XXXXXXXX7220	Paid	36519 1	9/2021
SBFW02B	Oct-07-2019 19:31:58			R2,000.00	Credit	Afican Bank	–	NO	Ms. Sinegugu Tshecwa	506-144346	Ms. Sinegugu Tshecwa	4083XXXXXXXX1411	Paid	27343 4b	3/2023
SBFW09B	Oct-07-2019 19:43:45			R7,000.00	Credit	SBSA	–	NO	Mr. Asavela Mdodana	356-496439	Mr. Asavela Mdodana	5221XXXXXXXX8695	Paid	63138 7	1/2020
SBFW02B	Oct-07-2019 19:44:11			R3,000.00	Credit	SBSA	–	NO	Ms. Sinegugu Tshecwa	506-144347	Ms. Sinegugu Tshecwa	5326XXXXXXXX7220	Paid	37237 2a	9/2021
SBFW04B	Oct-07-2019 19:59:00			R20,000.00	Credit	Capitol One	–	NO	Ms. Nothando Shangase	353-002659	Ms. Nothando Shangase	5264XXXXXXXX4249	Paid	50012 7	4/2021
SBFW02B	Oct-07-2019 19:59:08			R400.00	Debit	ABSA	–	NO	Ms. Sinegugu Tshecwa	506-144348	Ms. Sinegugu Tshecwa	4483XXXXXXXX7053	Paid	57958 3	7/2023
SBFW09B	Oct-07-2019 20:04:29			R10,000.00	Debit	Standard Bank	–	NO	Mr. Asavela Mdodana	356-496440	Mr. Asavela Mdodana	5196XXXXXXXX6181	Paid	80003 99	5/2024
SBFW10B	Oct-07-2019 20:15:34			R10,000.00	Credit	FNB	–	NO	Ms. Pearl Mkaza	363-793366	Ms. Pearl Mkaza	4901XXXXXXXX1088	Paid	77290 9	10/2021
SBFW04B	Oct-07-2019 20:21:34			R6,000.00	Credit	SBSA	–	NO	Ms. Nothando Shangase	353-002660	Ms. Nothando Shangase	4451XXXXXXXX7802	Paid	37886 6	1/2023

COMMISSION FOR GAMING AND LOTTERIES

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SIBAYA
CASINO & ENTERTAINMENT KWAZULU

Report Credit Card Transaction

Locn	PostDtm	Card Name	Player Name	Amount	Card Type	Institution	Remarks	Redeemed	Authorizer	Document No	Cashier	CrDrNumber	Status	Auth Code	ExpiryDt
SBFW06B	Oct-07-2019 20:29:13			R3,000.00	Credit	USBank	--	NO	Ms. Leyshia Joyce	365-788384	Ms. Leyshia Joyce	5471XXXXXXXX5017	Paid	773668	8/2020
SBFW04B	Oct-07-2019 20:38:48			R4,000.00	Credit	SBSA	--	NO	Ms. Nothando Shangase	353-002661	Ms. Nothando Shangase	5239XXXXXXXX6602	Paid	682679	9/2023
SBFW03B	Oct-07-2019 20:40:39			R2,000.00	Debit	ZURCHER	--	NO	Ms. Sitholle Xulu	969-731684	Ms. Sitholle Xulu	4483XXXXXXXX9428	Paid	270400	8/2022
SBFW04B	Oct-07-2019 20:42:19			R2,800.00	Credit	FNB	--	NO	Ms. Nothando Shangase	353-002662	Ms. Nothando Shangase	4578XXXXXXXX8732	Paid	007547a	2/2022
SBFW01B	Oct-07-2019 20:44:52			R500.00	Credit	Capitol One	--	NO	Ms. Nozipho Mlaba	357-804902	Ms. Nozipho Mlaba	5284XXXXXXXX3584	Paid	245160	7/2021
SBFW04B	Oct-07-2019 20:45:55			R400.00	Credit	FNB	--	NO	Ms. Nothando Shangase	353-002663	Ms. Nothando Shangase	4578XXXXXXXX6938	Paid	307744	6/2022
SBFW04B	Oct-07-2019 20:53:19			R350.00	Credit	Nedbank	--	NO	Ms. Nothando Shangase	353-002664	Ms. Nothando Shangase	5179XXXXXXXX5879	Paid	775178	7/2021
SBFW06B	Oct-07-2019 20:57:49			R5,000.00	Debit	FNB	--	NO	Ms. Leyshia Joyce	365-788386	Ms. Leyshia Joyce	4185XXXXXXXX2599	Paid	107455A	8/2022
SBFW03B	Oct-07-2019 20:58:30			R1,000.00	Credit	FNB	--	NO	Ms. Sitholle Xulu	969-731685	Ms. Sitholle Xulu	4901XXXXXXXX9015	Paid	775479	7/2022
SBFW10B	Oct-07-2019 21:03:50			R5,000.00	Credit	Nedbank	--	NO	Ms. Pearl Mkaza	363-793388	Ms. Pearl Mkaza	5181XXXXXXXX6844	Paid	775610	12/2019
SBFW05B	Oct-07-2019 21:07:33			R2,000.00	Credit	SBSA	--	NO	Ms. Yandisa gebuza	359-969830	Ms. Yandisa gebuza	5582XXXXXXXX2151	Paid	670806	7/2022
SBFW02B	Oct-07-2019 21:08:02			R1,500.00	Debit	Nedbank	--	NO	Ms. Sinegugu Tshecwa	506-144350	Ms. Sinegugu Tshecwa	5229XXXXXXXX4636	Paid	776055a	8/2021
SBFW04B	Oct-07-2019 21:09:07			R2,000.00	Debit	ZURCHER	--	NO	Ms. Nothando Shangase	353-002665	Ms. Nothando Shangase	4483XXXXXXXX9428	Paid	071084e	8/2022
SBFW04B	Oct-07-2019 21:11:07			R500.00	Credit	Capitol One	--	NO	Ms. Nothando Shangase	353-002666	Ms. Nothando Shangase	5284XXXXXXXX3584	Paid	591518	7/2021

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Report Credit Card Transaction

Locn	PostDtm	Card Name	Player Name	Amount	Card Type	Institution	Remarks	Redeemed	Authorizer	Document No	Cashier	CrDrNumber	Status	Auth Code	ExpiryDt
SBFW10B	Oct-07-2019 21:18:41			R5,000.00	Debit	Standard Bank	--	NO	Ms. Pearl Mkaza	363- 793391	Ms. Pearl Mkaza	5196XXXXXXXX4776	Paid	B11791A	7/2024
SBFW03B	Oct-07-2019 21:25:21			R500.00	Debit	Wells Fargo	--	NO	Ms. Sithollie Xulu	969-731686	Ms. Sithollie Xulu	4451XXXXXXXX0267	Paid	371245A	12/2019
SBFW04B	Oct-07-2019 21:25:24			R4,000.00	Debit	ZURCHER	--	NO	Ms. Nothando Shangase	353-002667	Ms. Nothando Shangase	4483XXXXXXXX6194	Paid	771245	1/2022
SBFW10B	Oct-07-2019 21:28:33			R5,000.00	Credit	SBSA	--	NO	Ms. Pearl Mkaza	363-793393	Ms. Pearl Mkaza	5326XXXXXXXX2748	Paid	402229U	7/2023
SBFW01B	Oct-07-2019 21:28:58			R5,000.00	Credit	USBank	--	NO	Ms. Nozipho Mlaba	367-804903	Ms. Nozipho Mlaba	4606XXXXXXXX3260	Paid	777184	2/2021
SBFW03B	Oct-07-2019 21:30:00			R3,000.00	Debit	ZURCHER	--	NO	Ms. Sithollie Xulu	969-731687	Ms. Sithollie Xulu	4483XXXXXXXX9428	Paid	371292aa	8/2022
SBFW10B	Oct-07-2019 21:38:42			R10,000.00	Credit	USBank	--	NO	Ms. Pearl Mkaza	363-793394	Ms. Pearl Mkaza	4787XXXXXXXX7016	Paid	'D77901A	8/2022
SBFW03B	Oct-07-2019 21:39:28			R800.00	Credit	FNB	--	NO	Ms. Sithollie Xulu	969-731688	Ms. Sithollie Xulu	4901XXXXXXXX9015	Paid	777949	7/2022
SBFW04B	Oct-07-2019 21:39:32			R200.00	Credit	SBSA	--	NO	Ms. Nothando Shangase	353-002669	Ms. Nothando Shangase	5239XXXXXXXX9524	Paid	685638	7/2024
SBFW10B	Oct-07-2019 21:47:34			R3,000.00	Credit	USBank	--	NO	Ms. Pearl Mkaza	363-793395	Ms. Pearl Mkaza	4787XXXXXXXX7016	Paid	'078396A	8/2022
SBFW09B	Oct-07-2019 21:48:49			R2,000.00	Credit	FNB	--	NO	Mr. Asavela Mdodana	356-496441	Mr. Asavela Mdodana	4790XXXXXXXX7628	Paid	907488	2/2022
SBFW02B	Oct-07-2019 21:49:01			R350.00	Credit	Capitol One	--	NO	Ms. Sinegugu Tshecwa	506-144351	Ms. Sinegugu Tshecwa	5284XXXXXXXX4863	Paid	609866b	7/2021
SBFW08B	Oct-07-2019 21:51:25			R5,000.00	Debit	WELLS FARGO	--	NO	Ms. Leyshia Joyce	365-788387	Ms. Leyshia Joyce	4333XXXXXXXX1330	Paid	343385	5/2023
SBFW05B	Oct-07-2019 21:53:34			R7,000.00	Credit	SBSA	--	NO	Ms. Yandisa gebuza	359-969831	Ms. Yandisa gebuza	5222XXXXXXXX5440	Paid	405135a	1/2023

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Report Credit Card Transaction

Locn	PostDtm	Card Name	Player Name	Amount	Card Type	Institution	Remarks	Redeemed	Authorizer	Document No	Cashier	CrDrNumber	Status	Auth Code	ExpiryDt
SBFW09B	Oct-07-2019 21:55:10			R5,000.00	Credit	Nedbank	--	NO	Mr. Asavela Mdodana	356-496442	Mr. Asavela Mdodana	5161XXXXXXXX6844	Paid	778881	12/2019
SBFW05B	Oct-07-2019 22:02:33			R500.00	Debit	Standard Bank	--	NO	Ms. Yandisa gebuza	359-969832	Ms. Yandisa gebuza	5196XXXXXXXX3727	Paid	B70212	5/2020
SBFW10B	Oct-07-2019 22:02:43			R10,000.00	Credit	SBSA	--	NO	Ms. Pearl Mkaza	363-793396	Ms. Pearl Mkaza	5326XXXXXXXX7814	Paid	594302F	3/2022
SBFW04B	Oct-07-2019 22:07:14			R600.00	Debit	Nedbank	--	NO	Ms. Nothando Shangase	353-002670	Ms. Nothando Shangase	5229XXXXXXXX4636	Paid	779478	8/2021
SBFW01B	Oct-07-2019 22:08:08			R500.00	Debit	Wells Fargo	--	NO	Ms. Nozipho Mlaba	357-804904	Ms. Nozipho Mlaba	4451XXXXXXXX0267	Paid	072072	12/2019
SBFW02B	Oct-07-2019 22:10:16			R1,000.00	Debit	Nedbank	--	NO	Ms. Sinegugu Tshecwa	506-144352	Ms. Sinegugu Tshecwa	5229XXXXXXXX0255	Paid	779782a	5/2023
SBFW03B	Oct-07-2019 22:10:31			R5,000.00	Debit	FNB	--	NO	Ms. Sitholile Xulu	969-731689	Ms. Sitholile Xulu	4185XXXXXXXX2599	Paid	107890	8/2022
SBFW01B	Oct-07-2019 22:16:12			R2,000.00	Debit	ZURCHER	--	NO	Ms. Nozipho Mlaba	357-804905	Ms. Nozipho Mlaba	4483XXXXXXXX9428	Paid	872153	8/2022
SBFW10B	Oct-07-2019 22:17:25			R10,000.00	Credit	FNB	--	NO	Ms. Pearl Mkaza	363-793397	Ms. Pearl Mkaza	4901XXXXXXXX1104	Paid	780215A	5/2022
SBFW05B	Oct-07-2019 22:18:22			R3,000.00	Credit	USBank	--	NO	Ms. Yandisa gebuza	359-969833	Ms. Yandisa gebuza	4606XXXXXXXX3260	Paid	780271a	2/2021
SBFW04B	Oct-07-2019 22:18:38			R400.00	Debit	ABSA	--	NO	Ms. Nothando Shangase	353-002671	Ms. Nothando Shangase	4483XXXXXXXX7053	Paid	172175b	7/2023
SBFW01B	Oct-07-2019 22:25:04			R3,000.00	Credit	Capitol One	--	NO	Ms. Nozipho Mlaba	357-804906	Ms. Nozipho Mlaba	5284XXXXXXXX5145	Paid	602471a	6/2024
SBFW03B	Oct-07-2019 22:32:58			R300.00	Credit	SBSA	--	NO	Ms. Sitholile Xulu	969-731690	Ms. Sitholile Xulu	5239XXXXXXXX9524	Paid	621845s	7/2024
SBFW05B	Oct-07-2019 22:33:53			R1,000.00	Credit	FNB	--	NO	Ms. Yandisa gebuza	359-969834	Ms. Yandisa gebuza	4578XXXXXXXX3898	Paid	908114	5/2023
SBFW10B	Oct-07-2019 22:41:32			R5,000.00	Debit	ZURCHER	--	NO	Ms. Pearl Mkaza	363-793398	Ms. Pearl Mkaza	4483XXXXXXXX9580	Paid	372411A	10/2021

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SIBAYA
CASINO & ENTERTAINMENT KINGDOM

Report Credit Card Transaction

Locn	PostDtm	Card Name	Player Name	Amount	Card Type	Institution	Remarks	Redeemed	Authorizer	Document No	Cashier	CrDrNumber	Status	Auth Code	ExpiryDt
SBFW02B	Oct-07-2019 22:50:13	[redacted]		R1,000.00	Credit	FNB	--	NO	Ms. Sinegugu Tshecwa	506-144353	Ms. Sinegugu Tshecwa	4578XXXXXXX X3898	Paid	70812 3A	5/2023
SBFW01C	Oct-07-2019 23:05:37			R1,000.00	Credit	FNB	--	NO	Ms. Makhosazana Mngoma	353-002872	Ms. Makhosazana Mngoma	4578XXXXXXX X3898	Paid	10813 9	5/2023
SBFW09B	Oct-07-2019 23:11:59			R50,000.00	Credit	FNB	--	NO	Ms. Petronella Gumede	363-793365	Ms. Petronella Gumede	4009XXXXXXX X6506	Paid	40517 7	9/2020
SBFW01C	Oct-07-2019 23:16:37			R5,000.00	Debit	Nedbank	--	NO	Ms. Makhosazana Mngoma	353-002873	Ms. Makhosazana Mngoma	5049XXXXXXX X4329	Paid	22852 5	8/2024
SBFW06B	Oct-07-2019 23:25:25			R20,000.00	Debit	Nedbank	--	NO	Ms. Yandisa gebuza	359-969635	Ms. Yandisa gebuza	5049XXXXXXX X4329	Paid	22998 5	8/2024
SBFW01C	Oct-07-2019 23:27:18			R600.00	Credit	Capitol One	--	NO	Ms. Makhosazana Mngoma	353-002874	Ms. Makhosazana Mngoma	5284XXXXXXX X5812	Paid	07589 0	4/2024
SBFW11C.	Oct-07-2019 23:28:55	Mrs D.C. Myeni	Duduzile Myeni	R10,000.00	Debit	Standard Bank	--	NO	Ms. Esha Bennie	356-496443	Ms. Esha Bennie	5196XXXXXXX X0904	Paid	B3288 0a	6/2023
SBFW11C	Oct-07-2019 23:40:22	[redacted]		R8,000.00	Credit	FNB	--	NO	Mrs. Samukelisiwe Majola	356-496444	Mrs. Samukelisiwe Majola	4901XXXXXXX X5060	Paid	78482 0aa	2/2022
SBFW11C	Oct-07-2019 23:44:43			R3,000.00	Debit	Standard Bank	--	NO	Mrs. Samukelisiwe Majola	356-496446	Mrs. Samukelisiwe Majola	5196XXXXXXX X4776	Paid	B3448 8a	7/2024
SBFW02C	Oct-07-2019 23:57:46			R2,500.00	Credit	USBank	--	NO	Ms. Nomvelo Celebekhulu	969-731692	Ms. Nomvelo Celebekhulu	4550XXXXXXX X1012	Paid	07617 4a	1/2022
SBFW02C	Oct-08-2019 00:04:09			R6,000.00	Debit	Standard Bank	--	NO	Ms. Nomvelo Celebekhulu	969-731693	Ms. Nomvelo Celebekhulu	5196XXXXXXX X3438	Paid	b0039 9a	11/2019
SBFW01C	Oct-08-2019 00:15:57			R10,000.00	Credit	FNB	--	NO	Ms. Makhosazana Mngoma	353-002676	Ms. Makhosazana Mngoma	4578XXXXXXX X6272	Paid	30090 6	9/2022
SBFW10B	Oct-08-2019 00:19:54			R30,000.00	Credit	Capitol One	--	NO	Ms. Zamazwide Nxumalo	363-793389	Ms. Pearl Mkaza	5284XXXXXXX X4818	Paid	90871 5A	10/2024

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Report Credit Card Transaction

Locn	PostDtm	Card Name	Player Name	Amount	Card Type	Institution	Remarks	Redeemed	Authorizer	Document No	Cashier	CrDrNumber	Status	Auth Code	ExpiryDt
SBFW10B	Oct-08-2019 00:24:35	[redacted]		R2,000.00	Debit	Wells Fargo	--	NO	Ms. Pearl Mkaza	363-793404	Ms. Pearl Mkaza	4451XXXXXXX X6593	Paid	78024 1A	2/2023
SBFW02C	Oct-08-2019 00:27:28			R2,000.00	Debit	Standard Bank	--	NO	Ms. Nomvelo Celebekhulu	969-731699	Ms. Nomvelo Celebekhulu	5196XXXXXXX X3438	Paid	b0271 4a	11/2019
SBFW11C	Oct-08-2019 00:38:48			R5,000.00	Debit	Standard Bank	--	NO	Mrs. Samukelisiwe Majola	356-496455	Mrs. Samukelisiwe Majola	5196XXXXXXX X4776	Paid	84964 55A	7/2024
SBFW11C	Oct-08-2019 00:39:58			R5,000.00	Debit	Standard Bank	--	NO	Mrs. Samukelisiwe Majola	356-496456	Mrs. Samukelisiwe Majola	5196XXXXXXX X4776	Paid	B0190 1a	7/2024
SBFW10B	Oct-08-2019 00:49:05			R2,000.00	Debit	Wells Fargo	--	NO	Ms. Pearl Mkaza	363-793405	Ms. Pearl Mkaza	4451XXXXXXX X6593	Paid	98048 4	2/2023
SBFW01C	Oct-08-2019 01:32:26			R249.00	Credit	USBank	--	NO	Ms. Makhosazana Mngoma	353-002678	Ms. Makhosazana Mngoma	4787XXXXXXX X2015	Paid	08551 9	1/2022
SBFW05B	Oct-08-2019 02:00:45			R5,000.00	Debit	Nedbank	--	NO	Ms. Yandisa gebuza	506-144354	Ms. Yandisa gebuza	5229XXXXXXX X6653	Paid	01595 7	11/2021
SBFW02C	Oct-08-2019 02:05:15			R5,000.00	Credit	USBank	--	NO	Ms. Nomvelo Celebekhulu	969-731700	Ms. Nomvelo Celebekhulu	4550XXXXXXX X1012	Paid	08747 9a	1/2022
SBCAGE	Oct-08-2019 02:25:49			R10,000.00	Credit	SBSA	--	NO	Mr. Wesley Naidoo	363-793354	Mr. Wesley Naidoo	5520XXXXXXX X2347	Paid	66581 9a	3/2024
SBFW01C	Oct-08-2019 03:40:02			R5,000.00	Credit	USBank	--	NO	Ms. Makhosazana Mngoma	353-002679	Ms. Makhosazana Mngoma	4550XXXXXXX X1012	Paid	08314 3aa	1/2022
SBFW10B	Oct-08-2019 03:44:52			R30,000.00	Credit	Amex	--	NO	Ms. Zamazwide Nxumalo	363-793407	Ms. Pearl Mkaza	3771XXXXXXX X637	Paid	81226 9A	3/2022
SBFW02C	Oct-08-2019 04:20:56			R20,000.00	Credit	SBSA	--	NO	Ms. Nomvelo Celebekhulu	969-731701	Ms. Nomvelo Celebekhulu	4548XXXXXXX X3574	Paid	41195 5a	3/2024

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SIBAYA

Report Credit Card Transaction

Locn	PostDtm	Card Name	Player Name	Amount	Card Type	Institution	Remarks	Redeemed	Authorizer	Document No	Cashier	CrDrNumber	Status	Auth Code	ExpiryDt
SBFW01C	Oct-08-2019 05:00:12	[redacted]		R1,000.00	Debit	Wells Fargo	--	NO	Ms. Makhosazana Mngoma	353-002680	Ms. Makhosazana Mngoma	4451XXXXXXXX8606	Paid	884590	10/2022

Total R1,284,792.00

CardType	Status	Institution	Amount	Transactions
Credit				
	Paid	Afican Bank	R2,000.00	1
	Paid	Amex	R30,600.00	2
	Paid	Captitol One	R122,600.00	16
	Paid	FNB	R439,396.00	58
	Paid	Nedbank	R33,900.00	13
	Paid	SBSA	R270,247.00	37
	Paid	TOP CARD SERV	R55,500.00	11
	Paid	USBank	R56,399.00	17
Debit				
	Paid	ABSA	R1,400.00	3
	Paid	Albaraka	R6,000.00	1
	Paid	FNB	R38,000.00	6

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SIBAYA

Report Credit Card Transaction

	Paid	NEBANK	R3,000.00	1
	Paid	Nedbank	R57,700.00	12
	Paid	PL	R20,000.00	1
	Paid	Standard Bank	R63,350.00	19
	Paid	Wells Fargo	R12,198.00	10
	Paid	ZURCHER	R73,500.00	13
Total			R1,284,792.00	221

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SIBAYA

Report Credit Card Transaction

You supplied these parameters for this report:	
Parameter	***You Typed***
From Gaming Date	Oct-07-2019
To Gaming Date	Oct-07-2019
CardType	All
Institution	All
Status	Paid
Player Account	All
TimeZone	South Africa Standard Time

COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-1210

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,

BONGISIZWE MPONDO

do hereby make the following statements under oath:

1. I am a former non-executive director of South African Airways SOC Limited ("SAA"). I was appointed on or about 27 September 2012 and accepted my appointment on or about 1 October 2012. I was appointed by former Minister, Mr Malusi Gigaba. The chairperson of the board at the time of my appointment was Mr Vuyisile Kona.

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.

THE APPOINTMENT AND REMOVAL OF MR KONA AS ACTING CEO OF SAA

3. On or about 8 October 2012, I received an email from the Company Secretary of SAA informing the board of the resignation of Ms Siza Mzimela, who was at that time the Chief Executive Officer of SAA. The newly appointed board, of which I was a board member, had not yet had an opportunity to meet as the first meeting was scheduled for 12 October 2012. Along with that correspondence, if my memory serves me correctly,

the Company Secretary suggested, to the board, that given the resignation of the CEO, it would not be proper, from a governance point of view, to have a vacuum in that position.

4. The Company Secretary further requested the board to appoint the then Chairperson as the interim CEO until the board had its first meeting. This was agreed by the board and approved by way of a round robin resolution. I do recall that there were emails exchanged in relation to the Corporate Governance issues, but ultimately, the round robin resolution was passed which ensured that Mr Kona would occupy the position of Acting CEO until the board meeting scheduled for 12 October 2012.

5. On 12 October 2012, the board met and the appointment of a CEO was discussed extensively. Reference is made to item 4.4 of the minutes of the board meeting held on 12 October 2012 **(Ann: BM1)**. The board resolved that Mr Kona continue to act as interim CEO until a permanent replacement was found. The issue of the separation of roles and duties was raised in this meeting which then lead to the board sending a request to the Shareholder to appoint an acting Chairperson so that, from a governance point of view, the board and SAA were not found wanting.

6. The board did not make a recommendation of any board member to be appointed as an acting Chairperson since this was the prerogative of the Minister. On 7 December 2012, the Minister appointed Ms Dudu Myeni as acting Chairperson of the board until the finalization of the CEO appointment **(Ann: BM2)**. I was referred by the investigator of the Commission, during our meeting, to annexure D of the letter of appointment, which reflected a list of all board members at the time. Under qualifications for Ms Myeni, the following was written:

   a) Secondary Teachers Diploma;

BG
BM

b) B Admin; and

c) Business Skills for SA Business Management.

7. My name is reflected against number 9 on this list and the qualifications listed next to my name include the following:

a) BSc Town and Regional Planning;

b) Training in Sustainable Development; and

c) Training in Applied Economics and Biodiversity.

8. I confirm that these are the qualifications that I had at the time I was a non-executive director at SAA. My assumption is that the appointing department would have captured each director's qualifications under the qualifications section/heading of this document.

9. I was presented by the investigator of the Commission, during our meeting, with what purports to be an ordinary resolution of the shareholder signed by Mr Gigaba on 11 March 2013 **(Ann: BM3)**. The resolution appears to record the removal of Mr Kona as a non-executive director and as Chairperson of the SAA board in accordance with section 71 of the Companies Act, 2008. I cannot comment on the events leading to the Minister writing this letter or passing this resolution and/or the removal of Mr Kona since I was not privy to the activities within the Department of Public Enterprises ("DPE").

10. However, what I can talk to is the action of the board relating to its responsibility concerning the role played by Mr Kona as acting CEO. Sometime around December 2012, information came to the board's attention relating to certain allegations of irregularities against Mr Kona. This was discussed by the board and legal opinions were sought. The legal opinion that the board received was not positive in relation to Mr Kona's role and responsibilities. The legal executive, at the time, drove the sourcing of the legal opinion process.

BM

11. After the legal opinions had been received and following various discussions around the allegations against Mr Kona, the board was of the opinion that Mr Kona was not suitable to drive the strategy that the board was seized with at the time, and that these allegations were not assisting in "fixing" SAA. The board accordingly took the necessary steps to remove Mr Kona from the position of acting CEO, with concurrence from the shareholder, and sought to appoint a new acting CEO. Mr Nico Bezuidenhout, who was CEO of Mango at the time, was then appointed by the board as acting CEO. The board's role in terms of Mr Kona and his activities was limited, to the best of my knowledge, to what I have said above. The decision to remove Mr Kona was unanimous. I do recall that there was a disciplinary process in regard to Mr Kona that was followed/pursued, but I'm not sure of what eventually happened with that process.

THE FINANCING OF THE AIRBUS A320 TRANSACTION

12. Prior to my appointment as a non-executive director, SAA entered into a deal to acquire 20 (twenty) A320's narrow bodies from Airbus. These planes were suitable apparently for both domestic and regional flights. The board was advised that this "deal" was secured during or about 2002. The understanding was that the deal was secured with Airbus but the financing thereof had not been finalized. Accordingly at the time we (the new board) were appointed, the financing of these aircrafts was still in process/to be completed. The Bank of China had been, prior to my appointment, recommended for the financing and the board inherited this process. Due to reasons that were given by the Bank of China, which I cannot fully recall at this stage, it pulled out from the "deal" and Pembroke Capital was awarded the tender for the financing of 10 (ten) of the aircrafts. The next ten aircrafts were going to require another/a further procurement process.

13. This resolution, to appointment Pembroke Capital on the basis set out above, was taken at a board meeting dated 27 May 2013 as can be determined from the minutes of said board meeting at item 9.9 thereof **(Ann: BM4)**. The minutes record that, the acting Chairperson of the board, Ms Myeni was present at this meeting.

14. On 2 June 2013, there was a further board meeting. The acting Chairperson, as is confirmed by the minutes, was present at this meeting. Item 8 of the minutes confirms that there was a discussion around the financing of the Airbus A320 transaction during this meeting **(Ann: BM5)**. In this meeting, during the CFO's report, there was input from the Chairperson of the Audit and Risk Committee who raised certain concerns around the risk associated with the proposed terms and conditions of the transaction with Pembroke Capital. I saw this as an attempt to re-open the discussions in circumstances where the board had already resolved on the matter in the previous meeting. The concerns were not entertained by the board and the matter was closed. The board did not retract or amend its decision of 27th May 2013 relating to the appointment of Pembroke Capital.

15. At the meeting with the inspector from the Commission I was presented with a letter dated 11 July 2013 which purports to have been addressed to Mr Gigaba by the acting Chairperson, Ms Myeni. The letter appears to be in relation to Section 54(2) of the PFMA: SAA Novation of the Airbus A320 **(Ann: BM6)**. This letter, *inter alia*, captured the following, and I quote:

"*Subsequent to the submission of the Application, a letter dated 20 June 2013 was written to the Minister requesting that an approval for 2 (two) aircraft instead of 10 (ten) be granted by the Minister. The subsequent request has since been reconsidered and*

SAA has decided to revert to 10 (ten) aircraft as stated in its Application dated 30 May 2013..."

16. I was, and I also verily believe that the board members were, not aware that the acting Chairperson sent a letter, on 20 June 2013, to the Minister which apparently recorded that the board, subsequent to its resolution taken on 27 May 2013, changed its decision so as to finance only 2 (two) aircrafts instead of 10 (ten). The Company Secretary subsequently sent a memorandum to me, and the rest of the board as I understand it, requesting us to ratify the decision of changing our resolution from 10 (ten) to 2 (two) aircrafts. This memorandum sparked a heated debate since the board had never taken such a decision. It appears to me that DPE had requested the acting Chairperson to provide a board resolution to confirm the decision, which she contended for in her letter of 20 June 2013, of the board. It appears, on the face of it, that Ms Myeni unilaterally attempted to change the board resolution of 27 May 2013 without the knowledge or approval of the board. This was highly irregular in my opinion.

17. The below is what I can say about the alleged letter sent to the Minister in June 2013:

a) the existence of this letter and its content were not known to the board;

b) the letter appears not to articulate the correct position of the board;

c) the letter appears to have insinuated that the board approved 2 (two) instead of the 10 (ten) aircrafts to be funded by Pembroke Capital as actually approved by the board.

18. I recall that the matter, being the content of the letter, was referred to internal audit for investigation and a report was prepared and presented to the board **(Ann: BM7)**.

COMMISSION OF INQUIRY INTO STATE CAPTURE

19. The second paragraph of the 11 July 2013 letter (captured under paragraph 15) is incorrect and does not reflect the facts of the matter and the details of the resolution of 27 May 2013 as I have set out above. There was no subsequent change/amendment by the Board of this decision

20. On 22 January 2014, the board held a meeting. I was appointed to chair that meeting since Ms Myeni was not in attendance and it became necessary for the board to appoint one of its members **(Ann: BM8)**. The investigator of the Commission, during our meeting, referred me to item 5.3 of the minutes recording the discussion around the A320 Round Robin. The following topics are recorded to have formed part of the discussions under this item:

    a) Section 54 Application;
    b) Delays in Novation; and
    c) Impact of Delay.

21. During this meeting one of the board members, I can unfortunately not recall who it was, suggested that the board had made the decision in May 2013 and the delivery of the A320 aircrafts should have been proceeded with and that it was due to the board's failure to produce or implement a delivery schedule for the delivery of the aircrafts and that therefore it ultimately fell on the board that SAA was not ready to take delivery of the aircrafts. As a result of this there was a potential impact of R2 million per month payable in storage fees to Airbus for SAA not taking delivery timeously.

22. One of the board members acknowledged this sentiment and referred back to the decisions that were taken by the board and subsequently changed by the acting Chairperson in relation to the 20 June 2013 letter sent to the Minister, which sought to

change the resolution of the board from financing 10 (ten) aircrafts to 2 (two), and going back to the initial decision of the board, as being a large reason for the delay and SAA ultimately being unable to perform/accept delivery.

23. On 3 April 2014, the board met. I was again appointed to chair this meeting since Ms Myeni was again not in attendance and so it became necessary for the board to appoint one of its members **(Ann: BM9)**. Item 6.4 of the board minutes reflects that there was an update on Whistle-blower reports under investigation. The Chief Audit Executive presented a summary of the report on allegations made against certain board members. The resolution, recorded at item 8 of the meeting minutes, reflects that the board accepted the recommendation of the Audit and Risk Committee that the Chairperson account to the board on the changes she made/attempted to make to the resolution of the board relating to the A320 aircraft funding on 27 May 2013. I do not recall the Chairperson ever accounting to the board for changing/attempting to change the board's resolution of 27 May 2013. By the time I left, the Chairperson had not, to the best of my knowledge yet accounted for her actions.

IODSA BOARD EVALUATION

24. Item 5.5 of the minutes of the board meeting of 22 January 2014 deals with the IoDSA Board Evaluation report. IoDSA was tasked to undertake a board evaluation. The evaluation was electronic and I, and to the best of my knowledge, the rest of the board, completed the evaluation. The Chairperson at a later stage requested for members of the board to be interviewed. The response from board members to the proposed interview process was not positive as members felt that conducting interviews would delay the preparation of the AGM pack for the meeting which was scheduled for 29 January 2014.

25. There was a significant delay in the release of the AGM pack. I believe that this was due to the delay in the release of the IoDSA report. There were numerous attempts to get the report from the Chairperson and the Company Secretary but it was not forthcoming. As can be ascertained from the minutes of the meeting, the board did not have this report at the date of this meeting. One of the members of the Social, Ethics, Governance and Nominations Committee ("SEGNO") had a hard copy of the report at the AGM and this was then shared in the meeting. As to why the report was held back, which lead to us missing the deadline to send the AGM pack to the shareholder, I do not know. We ended up assuming collective responsibility and apologised to the shareholder for the delay, whilst on the other side, we needed and requested the Chairperson to account to the board as to why she held the report back.

26. I don't recall the full content of the report, but given the issues prevailing at the time, I would think it would have reflected on all governance and leadership issues facing SAA at the time.

GENERAL BOARD LEADERSHIP AND CONCERNS

27. Under item 5.6 of the minutes of the same board meeting of 22 January 2014; the board dealt with the leadership of the board in general. This clause correctly reflects what transpired at the meeting and records that the majority of the board believed that there were challenges with the leadership of the Chairperson.

28. On 28 January 2014, six board members, me being one of them, resolved to write and sign a letter addressed to Ms Myeni and copied to Mr Gigaba, regarding concerns we had with Leadership Challenges in relation to the Chairperson of SAA **(Ann: BM10)**. The

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letter was signed by all board members except for Ms Yakhe Kwinana, Advocate LG Nkosi-Thomas and Dr R Naithani.

29. The letter raised and dealt with a number of issues and articulates, in my opinion, the issues very well. The signatories to the letter had first attempted to have a meeting with the Chairperson in order to deal with the challenges, as set out in the letter, prevailing at the time. The Company Secretary was requested to schedule a special session with the Chairperson in order to deal with these challenges. Despite the request the Chairperson never accepted the request for a meeting and consequently the signatories to the letter agreed to formally communicate with the Chairperson, through the letter.

30. The letter, broadly speaking, dealt with and canvassed the following topics:

a) Undermining the Narrow Body Fleet Financing Process (10 – 2 – 10);
b) Wide Body Procurement Process;
c) Losses occasioned by the Chairperson's Procrastinations;
d) Investigations;
e) Interference in Board Committees;
f) Inefficiencies; and
g) Disregard for Board Evaluations.

31. In response to this letter, we received an undated letter from the Chairperson which rejected our request for the meeting and for the opportunity to deal with these challenges **(Ann: BM11)**.

32. In a board meeting held on 03 April 2014; there was a request made, by the board, to the Company Secretary, to compile a report on the effectiveness of the board. That resolution is found under item 6.6 of the minutes of this meeting **(Ann: BM12)**. The

board felt that it had written to the Chairperson but also wanted the Company Secretary to provide his own assessment of the effectiveness of the board.

33. As part of the 29 May 2014 board meeting, the Company Secretary presented his report on the functioning and effectiveness of the board and its structures **(Ann: BM13)** – in accordance with the board's request as set out above. The report of the Company Secretary raised issues around the following areas:

a) The board evaluation;
b) Board not being a coherent team;
c) The meetings with the Chairperson and CEO;
d) Moratorium on meetings of the board;
e) Board leadership issues;
f) Referral of Memorandum to the Auditor-General without board approval;
g) Attendance at meetings; and
h) Letters to the Shareholder.

34. I recall that at some stage there was a letter that was read out during a board meeting where the Chairperson indicated that the then current board meeting should not continue, in this instance we had to invoke the provisions of the MoI. The MoI is clear in that when a meeting has been scheduled or it is a special meeting and the Chairperson does not arrive within fifteen (15) minutes of the scheduled time, the board may elect one of its members to chair the meeting and the business of the day may continue. The report prepared by the Company Secretary raised these issues and the attempted moratorium on board meetings which was attempted to be imposed by the Chairperson on board meetings.

35. The Company Secretary's opinion also touched on the issues we had raised in the 28 January 2014 letter about board leadership. This report was discussed in the meeting of the board that took place on 29 May 2014 **(Ann: BM14)**. The Company Secretary's report was adopted by the board. I do not recall any opposition to it. Ms Myeni was not present at this meeting. It was further resolved that a letter be written to DPE to request a session between the Minister and the board.

36. The board also resolved that there were sufficient grounds to determine that the Chairperson had neglected or been derelict in the performance of her duties of a director and the Chairperson of the board. The board was also of the view that, any action by the board should be in consultation with the Minister and in compliance with the requirements relating to the notice and the Chairperson being given an opportunity to make representations on the issues.

37. The board sought counsel from the Company Secretary in light of the leadership challenges facing the board at the time. The Company Secretary advised the board that amongst other options, it could initiate a process, in consultation with the Minister, to invoke the provisions of section 71(3)(b) for the removal of a director.

38. I remember that there was a meeting that was requested by Minister Gigaba before May 2014, which was called, I believe, to discuss the issues raised in the director's January 2014 letter, addressed to the Chairperson and copied to the Minister. The Minister, Deputy Minister and Director General attended that meeting along with board members. The purpose of the meeting from the side of the DPE, it appeared, was to mediate, and hear both parties in order to come up with a solution. At the time the meeting started, the Chairperson had not arrived. The DG advised us that he made an attempt to get hold of the Chairperson who was reported to be stuck in a meeting somewhere. While there was

an attempt by the Minister to address the issues raised regarding the Chairperson this was not possible as the Chairperson did not attend the meeting convened for this purpose.

39. There was a meeting that took place towards the end of June 2014 which was convened by the new Minister at the time, Ms Lynne Brown. It was the first time we were meeting with this Minister. In the meeting, the Minister afforded us an opportunity to tell her what was going on in SAA. The directors all, to the best of my recollection, gave input. The Chairperson arrived during the course of the meeting. The members raised issues around leadership which were along the lines of the contents of the letter previously communicated and the sentiments captured in the minutes and the Company Secretary's report. The Minister was therefore well aware of the issues the board raised around the leadership challenges facing the board at the time.

40. I was also advised by the investigator of the Commission, at our meeting, that there was a report dated 30 July 2014 that was prepared by officials within the DPE which appraised the Minister of the leadership challenges facing SAA and the board. I am advised that the report to which the investigator of the Commission referred is attached hereto **(Ann: BM15)**.

EVENTS LEADING TO RESIGNATION

41. On or around 14 October 2014; I, and I assume the rest of the board members, received a notice for the convening of a special general meeting from the Company Secretary, attached to it was an Agenda for the meeting **(Ann: BM16)**. The special general meeting was to be held on 23 October 2014 at DPE offices. The notice dealt with only two items. The first being the consideration of presentations to be made by certain board members, whose names were recorded in the notice, in terms of section

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71(2)(b) of the Companies Act. The second being to consider the Resolution to remove the board members mentioned in the notice with effect from 23 October 2014.

42. There were seven (7) board members that were named in the notice, which included all of the board members that signed the 28 January 2014 letter addressed to the Chairperson and copied to the then Minister, and in addition, Dr Naithani.

43. The notice came as a complete surprise to me (and as I understand it, also to the other board members mentioned in the notice) as the board was proceeding with the business of running SAA, with the last meeting being around 19 September 2014 which was chaired by Ms Raisibe Lepule (**Ann: BM17**), and pursuing the issues the board had with the leadership of the Chairperson. There was nothing that had happened at the time which gave me the impression that the Minister was not happy with my or the board's performance. I was perplexed by the receipt of the notice as there had been no warning or indication that it was forthcoming

44. Given this notice, it seemed to me that there was already a predetermined outcome of this meeting and that there was nothing for me to present, particularly as there was nothing I had done wrong or needed to make representations in respect of. I did not understand what had caused this notice for my removal to be sent. I therefore, after much deliberation, decided to give the Minister the space she clearly needed and resigned from the board through a resignation letter which I presented on or about 17 October 2014 (**Ann: BM18**).

45. There was no attempt made by me or, to the best of my knowledge, by the other directors who had signed the letter of 28 January 2014, to solicit an explanation as to why the Minister wanted to remove me (us) from the board. At the time, I was not aware

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of any complaints or allegations that have been levied against me and none have been made/come to light subsequent to my departure.

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 Sandton on this the 28th day of July 2020 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: CARL R FAGELUND-GJERSÖE
COMMISSIONER OF OATHS
PRACTISING ATTORNEY

ADDRESS: UNIT 16 SUNNINGHILL OFFICE PARK
4 PELTIER DRIVE
SUNNINGHILL

EX OFFICIO:

COMMISSION OF INQUIRY INTO STATE CAPTURE

ANNEXURE "MB1"

COMMISSION OF INQUIRY INTO STATE CAPTURE

MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS (2012/05) OF SOUTH AFRICAN AIRWAYS (PTY) LTD HELD ON FRIDAY 12TH OCTOBER 2012, IN THE 6TH FLOOR BOARDROOM, AIRWAYS PARK, JONES ROAD, KEMPTON PARK, AT 09:00

Resolution No / For Attention

1 **WELCOME, CONSTITUTION OF THE MEETING, APOLOGIES AND SIGNING OF THE ATTENDANCE REGISTER**

Present

Mr V Kona	Chairperson
Ms Y Kwinana	Non Executive Director
Ms DC Myeni	Non Executive Director
Adv LG Nkosi-Thomas	Non Executive Director
Mr A Khumalo	Non Executive Director
Mr A Mabizela	Non Executive Director
Dr R Naithani	Non Executive Director
Ms C Roskruge	Non Executive Director
Mr B Mpondo	Non Executive Director
Ms R Lepule	Non Executive Director
Ms N Kubheka	Non Executive Director
Mr W Meyer	Chief Financial Officer

Apologies
None

In attendance

Mr S Dlamini	Company Secretary
Ms M Makhakhe	Deputy Company Secretary

The Chairperson welcomed all present and declared the meeting properly constituted and requested all members to ensure that they signed the attendance register.

He then requested the Company Secretary to explain to the Board the implications of him chairing the meeting given the fact that he had been appointed as the Acting CEO.

The Company Secretary then took the Board through the developments of the week of 8 October 2012, after the CEO had resigned from her position. He mentioned that following the resignation of the CEO, the Chairperson was appointed as the acting CEO with effect from the 8th October 2012. He added that this was done in order to ensure there was no vacuum at that level. He further explained that the appointment was effective until the 12th October 2012 as it was anticipated the Board would at this meeting discuss the matter. According to the agenda, the Board would deal with the position going forward under item 4.1. In order to ensure there was separation of roles, he requested the Board to consider appointing one of the directors to chair the meeting.

The Board deliberated on the matter and appointed Ms Yakhe Kwinana to chair the

meeting. At this stage, Ms Kwinana took over as the chair of the meeting.

2 ADOPTION OF AGENDA

The agenda was adopted without any amendments.

3 DIRECTORS DECLARATION OF INTEREST

All directors declared that they had no interest in matters listed on the agenda and signed the declaration of interest forms.

4 NEW MATTERS FOR DISCUSSION /APPROVAL

4.1 Appointment of the Committee members and directors of subsidiaries

The Company Secretary requested the Board to appoint directors to serve on the Committees of the Board and the Boards of subsidiaries.

In response to a question, he explained that the Board was entitled to appoint members of for all Committees, except the Audit Committee. The appointment of the Audit Committee members was a preserve of the shareholder. The directors or the Board could only make recommendations.

The Acting CEO, Mr V. Kona, proposed that a new Adhoc Committee be established to oversee the development of the turnaround Business Plan. The Board approved that the Adhoc Committee on Business Plan be established.

Regarding the Committee members, the Board decided to have an in committee meeting, at which point management recused itself.

Management rejoined the meeting after few minutes and it was reported that the Board had decided that a list of Committee members be circulated to the directors for their consideration and approval. **2012/05/01 Company Secretary**

4.2 Business Plan Review: Process and Engagement Approval

The acting CEO pointed out to the Board that SAA had to develop or review its Business Plan in order to meet the requirements of the Shareholder. He explained that the Shareholder had imposed, as one of the conditions of the guarantee given to SAA, a requirement that SAA must submit a turnaround strategy acceptable to National Treasury and Department of Public Enterprises (DPE). He submitted that his view was that a consultant should be appointed to assist with the development of the turnaround strategy and reported that the market had been approached to provide quotations. Copies of the Terms of Reference which had been used to approach the market were circulated at the meeting.

Discussions on the Terms of Reference ensued. The Board indicated that it needed to have some comfort with the document used to approach the market. The concern was that the Board had not applied its mind to the contents thereof to be certain that it would address the challenges facing the airline and deliver outcomes the Board would like to achieve.

The Acting CEO responded that the document which had been received from DPE and circulated to the Board was used as the basis after effecting some amendments.

He further reported that Supply Chain Management was advised to go out to the market on a closed tender basis for the reason that SAA was looking for consultants with a specific set of skills and there was no time to go through the normal tender process.

The Acting CEO was asked to explain the time constraints and the pressure under which SAA had been put by the Shareholder regarding the development of the turnaround plan. He mentioned that the SAA had budgeted R1,5 billion loss and the Shareholder was concerned about this and advised that the airline should engage a service provider that could assist with the preparation of the turnaround strategy. He submitted that he would consult the DPE and National Treasury before settling the engagement letter as they had shown interest in seeing it before the service provider was engaged.

The Acting CEO reiterated that SAA had to go out to the market as soon as possible since it had to meet the deadline for the submission of the Corporate Plan.

The Board agreed to defer this matter to a later a stage.

After the Board induction, the Board revisited the matter and resolved that the process to appoint a service provider to assist in the development of the turnaround strategy be allowed to proceed.

Regarding the submission of the Corporate Plans, the Board decided that the Shareholder be requested to confirm the condonation of the omission on the part of the SAA to submit the Corporate Plan for the financial year 2011/12. **2012/05/02 Company Secretary**

A question was raised as to what were the conditions of the guarantee granted to SAA by the Government.

The acting CEO reported that the conditions of the guarantee had not been communicated to SAA as the Minister was not comfortable with one of the conditions which he was discussing with the Minister of Finance. Once the discussions between the Ministers were concluded, National Treasury would communicate all the conditions to the SAA.

The Board then decided that the Department be informed that the appointment of the service provider could not be finalised or concluded until the Board knew what the conditions were. **2012/05/03 Company Secretary**

An issue was raised as to whether the SAA's budget had been approved by the Minister and the response was that there had been discussions around the Corporate Plan and the budget and the shareholder had agreed to defer the submission of the Corporate Plan.

The Board requested the CEO and management to regularize the current situation. **2012/05/04 CEO/ Ms R Lepule**

Ms Raisibe Lepule was requested to work closely with the Acting CEO on this matter.

Further, the Board requested that an induction on governance issues be conducted as soon as possible. **2012/05/05 Company Secretary**

DCM

4.3 Significant and Material Framework

This matter was deferred to the next meeting of the Board.

4.4 Appointment of Acting CEO

The Chairperson requested the Company Secretary to talk to this item. The Company Secretary then informed the Board that on the 8th October 2012, the CEO of SAA resigned and a decision was taken by the Board through a round robin to appoint the Chairperson as the Acting CEO from the 8th to the 12th October 2012. The view at that time was that the Chairperson would act as the CEO until the Board met on 12th October 2012 where a final decision would be taken on the appropriate person to act as CEO until a replacement was found.

At this stage, the Acting CEO was requested to leave the meeting.

The Company Secretary proceeded to advise that the proposal that was being made to the Board was that Mr V. Kona be appointed to act as CEO until a replacement was found.

The Company Secretary, however, pointed out to the Board that the only concern that one had with that proposal was that it was not consistent with the recommendations of the King Report on Corporate Governance with regard to the separation of roles.

He went on to suggest that, if the Board were to accept that proposal it would have to consider appointing a lead independent non-executive director.

The Board deliberated on the matter and came to the conclusion that it would support a recommendation to the Shareholder requesting the Shareholder to appoint an Acting Chairperson during the period in which the current Chairperson would be acting as the CEO.

After further deliberation, the board **RESOLVED** that:

The Chairperson, Mr Vuyisile Kona, be and is hereby appointed as the Acting Chief Executive Officer with effect from the 12th October 2012 until a permanent Executive Chief Officer was appointed.

In terms of Articles 23.1 of the Memorandum of Incorporation (MOI), the powers vested in or conferred upon the Chief Executive Officer be and are hereby delegated to the Chairperson, Mr Vuyisile Kona.

The Shareholder be requested to appoint an acting Chairperson for the duration that the Chairperson will be acting as the Acting CEO.

2012/05/06 Company Secretary

5. INDUCTION

5.1 Overview by the CEO

The Acting CEO informed the Board that General Managers would do presentations to the Board on their respective business areas.

He went on to advise that the airline was operating under difficult circumstances arising from a number of factors including:

a) Soft global market;

DG BM DCM

b) Steep competition;

c) Increase in fuel costs.

He pointed out that it was imperative that the product offering be updated and customer service be improved for the airline to succeed.

The Acting CEO suggested that after hearing the General Managers the Board would have to consider quick wins that could be achieved.

5.2 Chief Financial Officer – Finance

The CFO did the presentation on Finance (see **Annexure "A"**)

The Board asked questions and/or made comments as follows:

Directors and Officers Liability cover

How was the amount of R200 million determined?

The CFO explained that it was based on the size of the airline. He added that it could be reviewed and mentioned that the renewal date was 1 November 2012.

The Board advised that a more scientific way of calculating the amount of cover should be found. **2012/05/07 CFO**

Guarantee

What were the conditions of the guarantee?

The Acting CEO explained that the conditions would be communicated once the Ministers was comfortable with them. There was one condition he was still negotiating or discussing with the Minister of Finance.

Employment Equity

The Board remarked that a plan should be developed to achieve the employment equity targets and that the Finance Department should not only rely on retirement or people leaving the company to achieve its targets. **2012/05/08 CFO**

Fuel Supply Negotiations

The CFO was requested to highlight certain aspects of the negotiations.

He advised that some of the fuel supply agreements were coming to an end and the negotiations were underway in respect thereof.

Hedging

It was enquired whether or not SAA had a leeway with regard to hedging.

The CFO advised that the hedging strategy was presented to the Board as and when there were changes. It was done independently of National Treasury and approved by the Board.

He added that according to the policy, hedging limits were as follows: **2012/05/09 CFO**

DCM

- Foreign currency hedging: 75% of net foreign currency exposure
- Fuel hedging: 60% of budgeted exposure over a one year rolling period

The Board requested that the hedging limits be included in the information file to be submitted to the Board.

A320

In response to a question, the CFO reported that the negotiations on the A320 commenced in 2002. The order was, however, renegotiated in 2008/9 and increased from 15 to 20. The delivery dates were set to commence 1 June 2013 over a 5-year period until 2017. SAA currently faces a challenge in that the costs of the A320 aircraft are higher than the current contract prices because of contracted price escalations, as well as the result of the introduction of the new generation NEO that will enter the market in 2013.

Long term fleet requirements

The CFO reported that the fleet requirements would be addressed in the new Business Plan. The Board would get further guidance after completion of the Business Plan.

Going Concern / Guarantee By Government

The CFO explained that the requirement for the guarantee came about after concerns were raised by the external auditors about SAA's ability to continue operating as a going concern. **2012/05/10 CFO**

A going concern report was presented to the Board, which indicated that R7.8 billion was required by SAA to meet its potential cash flow obligations. This amount included a R2.8 billion on strategic capital expenditure. The R5 billion was based on the calculation excluding the capital expenditure.

Cost Compression Targets

In response to a question, the CFO informed the Board that the costs compression target was R1,3 billion and that SAA had achieved about 50% of that target to date. He added that he a presentation on this matter was available to the Board with detail on the various projects in place to ensure the projected savings.

The Board indicated that it would like to have that presentation as soon as possible.

5.3 Commercial

GM: Commercial and Mr Jerome Simelane did a presentation to the Board (see **Annexure"B"**).

The Board made some enquiries about following matters:

Global Alliance

The Board indicated that it had interest in understanding global alliances and the move towards joint ventures. This was briefly explained and the Board requested for further details on the matter. **2012/05/11 Company Secretary**

Kenya Airways

It was pointed out that Kenya was making inroads in Africa gaining the market share. What were they doing right?

The response was that Kenya Airways had a good geographical position, quick pace, and had invested in aircraft.

Star Alliance Membership

Was there value in keeping the Star Alliance membership? The answer was in the affirmative. The GM: Commercial added that about R700 Million revenue was linked to the Star Alliance membership.

Yield in Africa

It was enquired whether yield in Africa was higher than in other areas. The response was that the yield in Africa had double.

Collaboration With Consumer Industry

In response to a question whether SAA was working with the tourism industry or had plans to do so, the GM: Commercial advised that SAA was a member of SAKI and planned to take part in all conferences. Furthermore, he reported that SAA was in the process of finalising an MOU with SA Tourism.

Loss Making Route

A comment was made that management should look into the loss making routes.

A point was made, in response to a question, that to stop the losses, the Board had to focus on key critical success factors such as structural changes, productivity, union issues and the way of doing business.

Branding

2012/05/12 Company Secretary

It was enquired whether branding was being done at an appropriate time.

Management submitted that it could still be put on hold if the Board was of that view. The Board remarked that it needed to understand the thinking behind the branding and how it would influence the bottom line. Management added that the company needed branding to revitalize itself. It was conceded that branding was critical and had to be factored in all the operations of the company.

5.4 Cargo

General Manager: Cargo did a presentation on his business area (see **Annexure "C"**). The Board proceeded to ask questions or make comments to which the General Manager gave responses.

Relationship between SAA and SA Express

In response to a question, the GM Cargo explained that SAA Cargo had an arrangement with SAX in terms whereof SAA managed its belly space. The companies share revenue derived from handling and transporting SAX cargo.

Road Freight

DCM

The General Manager: Cargo pointed out, in response to a question, that SAA was not involved in road freight and that this was stopped after experiencing operational challenges. He added that services to truck bulk cargo from Port Elizabeth to Johannesburg had been outsourced.

5.5 Legal, Risk and Compliance

The General Manger: Legal, Risk & Compliance reported that the Head: Legal would do the presentation and she would only take questions from the Board after the presentation. The Head: Legal then proceeded to do the presentation (See **annexure "D"**)
After the presentation, the Board asked questions.

Litigation against former Mr Ngqula

It was explained that this matter was not included in the presentation as the Board had decided that it would be handled by the Board directly. Should the Board need an update, it would be given. The Board decided that the update be provided.

The Chairperson of the Adhoc Committee, Adv Nkosi-Thomas took the Board through the claim against Dr Ngqula which allegedly arose from breach of fiduciary duties and him acting without authority. She touched on the attorneys handling the matter, particularly on the twinning arrangement between a white firm and a black firm. It was pointed out that the Adhoc Committee met monthly to assess progress and the prospect of success.

She further added that the costs were already, in the region of R7 Million.

In response to a question, GM: Legal, Risk & Compliance pointed out that measures had been put in place to ensure the transgressions committed were not repeated, although it was not because the weakness in controls that the transgressions occurred. It was submitted that this was a case of someone who allegedly ignored the controls.

5.6 SAAT

The CEO of SAAT did a presentation on his business area (see **Annexure "E"**)
The Board proceeded to ask questions after the presentation on the following matters:

Third party Business

The CEO was requested to take the Board through his plans to grow third party business. He explained that SAAT had a plan to create a small hub in the African continent for line maintenance with a view to growing it to a point at which it could do major works. He added that there was also a plan to increase engine work.

Component Work

Regarding the component work, he reported that SAAT was bringing back work from France/Israel to do it in South Africa.
The CEO also pointed out that it would be critical for SAAT to have a degree of agility in making decisions.

Strategic Partnership

The CEO further pointed out that strategic partnerships were also under consideration.

He mentioned that SAAT was looking at 5 prospective partners.

Inventory Optimisation

The CEO advised that the plan in this regard included buying more of the fast moving goods and less of the slow moving goods.
In conclusion and in response to a question, he reported on the THRUST project and explained that it had been initiated to improve efficiencies and that it was proving to be successful.

5.7 Operations

Ms Zuks Ramasia made a presentation on the operations (See **Annexure "F"**) and took questions from the Board Members. She explained, in response to questions, that:

- SAA employees were trained wherever they were in order to ensure that all SAA customers had the same experience.
- Fuel intake was according to a particular formula. Pilots had no discretion on the matter.

On line check-ins did not have an impact on employment.

5.8 Mango

The CEO of Mango, Mr N Bezuidenhout did a presentation on Mango (See **Annexure "G"**).

He explained that SAA took the decision to establish Mango (dual banding model) with the following objectives, amongst others:

- To bring the cost of travelling down;
- To stop losses.

In response to a question, he advised that Mango leased its aircrafts and that it (Mango) could not survive if it had old generation aircraft in the light of the increase in fuel prices.

A question was raised as to how the regional market would look like in the near future. His response was that there would be more competition and that the premium carriers would have slightly smaller space.

6. GENERAL

The Company Secretary took the Board through the AGM process and advised that the newly appointed board members would be expected to attend the special General Meetings which would take place immediately after the AGM. The old Board members would be expected to attend the AGM. He further reported that there would also be a media briefing which all Board Members would have to attend.

13 CLOSURE

There being no further matters to discuss the Chairperson thanked all present for their contribution and declared the meeting closed.

BM

DCM

CHAIRPERSON

Date: 02/06/2013

COMPANY SECRETARY

Date: 02/06/2013

COMMISSION OF INQUIRY INTO STATE CAPTURE

ANNEXURE "MB2"



MINISTER
PUBLIC ENTERPRISES
REPUBLIC OF SOUTH AFRICA

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Private Bag X9078, Cape Town, 8000 Tel: 021 461 8378/7 Fax: 021 463 2361/461 1741

Ms Dudu Myeni
Non-Executive Director: SAA Board
South African Airways SOC Limited
Private Bag X13
OR Tambo International Airport
1627

Tel: 011978 0908
Fax: 011 978 2520
Email: sandile.dlamini@flysaa.com

Dear Ms Myeni

Re: Appointment as Acting Chairperson of SAA Board of Directors

In my support of the Board's decision to appoint Mr Vuyisile Kona as Acting CEO, I have given thought to the need to maintain a clear and unambiguous delineation of roles between the CEO and Chairperson. Consequently, it is my wish to appoint you as Acting Chairperson of the SAA Board, with immediate effect until the finalisation of the CEO appointment.

In accepting this appointment, you will be expected to perform all duties of the Chairperson of SAA. You will recall my directive to the Board at the Special General Meeting held on 15 October 2012, wherein I requested that the Board deal holistically with the challenges facing our airline assets. The task team made up of the Chairperson of the Board of Directors of SAA, the Chairperson of the Board of Directors of the South African Express (SAX), the CEO of SAX, the CEO of Mango together with the Acting Deputy Director-General: Transport Enterprises in the Department to provide me with a view on the critical success factors for the turnaround and a roadmap for the turnaround. The task team is due to report back before 15 December 2012.

I note that you are currently the Chairperson of the Remuneration and Human Resources Committee (REMCO) and request that the Board consider appointing another Chairperson to the Committee as an interim measure. This is in line with the principle that the Chairperson of the Board should not serve as the Chairperson of a Board Committee or subsidiary of the Company. It is however, recommended that as

DCM

Acting Chairperson of the Board you remain a member of the REMCO in order to participate in the recruitment of the new CEO.

I wish to express my concern that since the appointment of the new Board on 15 October 2012, I have received no feedback on the recruitment process for a new CEO. At the Special General Meeting, the Board was mandated to undertake the recruitment process and provide me with three appointable candidates within three months. In this regard, I would appreciate your assessment of the process thus far and urge the Board to be guided by the Department's CEO Appointment Guidelines enclosed for your attention.

I anticipate that you will be able to allocate sufficient time to discharge your responsibilities effectively in the best interests of the Airline and with due consideration of the Shareholder's expectations. As Non- Executive Chairperson you will be entitled to receive the Chairperson's fees as per the SAA Remuneration Policy.

I would be grateful if you would signify your acceptance of the appointment by signing and returning the enclosed confirmation form.

Yours sincerely

MR MALUSI GIGABA, MP
MINISTER OF PUBLIC ENTERPRISES
DATE: 2012/12/07

DCM

public enterprises

Department:
Public Enterprises
REPUBLIC OF SOUTH AFRICA

I, DUDUZILE C MYENI, in my capacity as a Non Executive Member of South African Airways Board, hereby accept the appointment as Acting Chairperson of the South African Airways Board. I undertake to observe and comply with the principles and provisions of all legislation relevant to South African Airways, the Protocol on Corporate Governance (under review) and the provisions of the Shareholder's Compact between the Board of South African Airways and the Minister of Public Enterprises, to devote sufficient time for the execution of my responsibilities, to utilize my skills to the best of my ability, to initiate, develop and implement systems or mechanisms for the effective and efficient management of South African Airways and to maintain and observe the highest standards of integrity and probity in the execution of my responsibilities.

Ms Duduzile Myeni

2012/12/07
Date

COMMISSION OF INQUIRY INTO STATE CAPTURE

CURRENT SAA BOARD

SECRET

ANNEXURE D

No.	Full Name	Gender	Ethnicity	Qualifications	Skills For Board	App Date	Exp Date
1	Ms Duduzile Myeni (Chairperson)	Female	African	Secondary teachers diploma, B Admin, Business Skills for SA Business Management	aviation, business strategy, corporate finance	September 2009	September 2015
2	Mr Monwabisi Kalawe (Chief Executive Officer)	Male	African	Excellent business acumen, operational and supply chain management. Effective stakeholder engagement and change management agent	Business strategy and aviation	May 2013	2018
3	Mr Wolfgang Helgard Meyer (CFO)	Male	White	B.Pl, B Compt Honours & CA	Corporate Finance & Treasury	June 2011	N/A
4	Mr Andile Mabizela	Male	African	BA Law, BSc Economics (honours)	legal, aviation, economics and policy development	September 2012	September 2015
5	Mr Andile Khumalo	Male	African	CA SA, Bachelor of Commerce, Post Graduate Diploma in Theory of Accounting	auditing, corporate finance,	September 2012	September 2015
6	Mr. Rajesh Naithani	Male	Indian National	MBA (Stuart Business School, Illinois Institute of technology), PhD in medicinal chemistry (Kurukshetra University)	Advisor, Uttarakhand Government, India	September 2012	September 2016
7	Adv Lindi Nkosi-Thomas	Female	African	B Juris: LLB	Legal	September 2009	September 2015

COMMISSION OF INQUIRY INTO STATE CAPTURE

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8	Ms Carol Roskruge	Female	African	Bsc, BSc(hons), Msc (UKZN), MBL (UNISA Graduate School of Business Leadership	Supply chain, affirmative procurement	September 2012	September 2015
09	Mr Bongiszwe Mpondo	Male	African	BSc Town & regional Planning, training in sustainable development, applied economics and biodiversity	transport planning and policy, sustainable development and project management	September 2012	September 2015
10	Ms Ralsibe Lepule	Female	African	BAdmin (Economics and Political Science), UKZN, M.Phil in Maritime (Stellenbosch)	SoC governance, transport policy, DPE strategic direction	September 2012	September 2015
11	Ms Yakhe Kwinana	Female	African	CA(SA); Diploma in Banking; Higher Diploma in Computer Auditing	Finance	September 2009	September 2015
12	Ms Nonhlanhla Kubeka	Female	African	BComm, certificate in marketing, MBA	Marketing, Tourism	September 2012	September 2015

DD34-DCM-1242

MINISTRY
PUBLIC ENTERPRISES
REPUBLIC OF SOUTH AFRICA

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Ms Dudu Myeni
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1627

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Email: sandile.dlamini@flysaa.com

Dear Ms Myeni

Re: Appointment as a Chairperson of the SAA Board of Directors

Since your appointment as Acting Chairperson in October 2012, I wish to convey my gratitude in the manner in which you have performed your fiduciary duties. The quiet resolve, tenacity and discretion with which a myriad of critical issues were dealt with is truly commendable.

I am therefore pleased to inform you of your appointment as Chairperson of the SAA Board of Directors, with immediate effect, for a three year term.

This appointment is subject to annual review and will be informed by, amongst others, the Board Evaluation, the performance against Compact targets as well as SAA's annual performance. By accepting this appointment, you confirm that you are able to allocate sufficient time to meet the requirements of serving on the Board.

I anticipate that you will be able to allocate sufficient time to discharge your responsibilities effectively in the best interests of the Airline and with due consideration of the Shareholder's expectations. As Non- Executive Chairperson you will be entitled to receive the Chairperson's fees as per the SAA Remuneration Policy. Directors' and Officers' liability insurance is maintained by SAA, full details of which will be made available to you by SAA.

ANNEXURE "MB3"



SOUTH AFRICAN AIRWAYS SOC LTD
(Registration No. 1997/022444/07)

ORDINARY RESOLUTION OF A SOLE MEMBER IN A SHAREHOLDERS MEETING HELD AT SUITE 401, INFOTECH BUILDING, 1090 ARCARDIA STREET, HATFIELD ON 11 MARCH 2013.

Section 71 (1) of the Companies Act, 2008 provides that a director may be removed by an ordinary resolution adopted at a Shareholders Meeting.

Section 71 (2) (b) of the Companies Act, 2008 states that the director to be removed must be afforded an opportunity to make a presentation to the meeting in person or through a representative before the adoption of the resolution.

IT IS RESOLVED THAT:

Mr Vuyisile Kona be removed as a Non-Executive director and Chairperson of the SAA Board in accordance with the provisions of section 71 of the Companies Act, 2008.

MR MALUSI GIGABA, MP
Shareholder Representative of the Government of the Republic of South Africa
Date: 2013/03/11

COMMISSION OF INQUIRY INTO STATE CAPTURE

ANNEXURE "MB4"



SOUTH AFRICAN AIRWAYS
A STAR ALLIANCE MEMBER

CONFIDENTIAL

MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS (2013/05) OF SOUTH AFRICAN AIRWAYS SOC LTD HELD ON MONDAY, 27 MAY 2013 AT AIRWAYS PARK 6TH FLOOR BOARDROOM AT 10:00

Resolution No /

For Attentio

Present

Ms DC Myeni	Acting Chairperson
Ms N Kubeka	Non Executive Director
Ms Y Kwinana	Non Executive Director
Ms R Lepule	Non Executive Director
Mr B Mpondo	Non Executive Director
Adv LG Nkosi-Thomas	Non Executive Director
Ms C Roskruge	Non Executive Director
Mr A Khumalo	Non Executive Director
Mr A Mabizela	Non Executive Director
Mr Nico Bezuidenhout	Acting Chief Executive Officer
Mr W Meyer	Chief Financial Officer

Apologies

Dr R Naithani

In attendance

Mr S Dlamini	Company Secretary
Ms M Makhakhe	Deputy Company Secretary

1. **OPENING, WELCOME, EVACUATION PROCEDURE, CONSTITUTION OF THE MEETING AND SIGNING OF ATTENDANCE REGISTER**

The Chairperson opened the meeting and welcomed everyone.

With the notice of the meeting having been duly issued and the quorum being present, the meeting was declared well constituted.

The evacuation route was noted and the attendance register signed.

2. **APOLOGIES**

An apology from Dr R Naithani was noted.

COMMISSION OF INQUIRY INTO STATE CAPTURE

3. ADOPTION OF AGENDA

The Agenda was adopted with acknowledgement that matters might not be considered or dealt with in the same order as they appeared on the Agenda.

4. DECLARATION OF INTERESTS

The directors declared that they had no personal interest in the matters on the agenda.

The Declaration of Interest Forms were circulated for completion and signature.

5. APPROVAL OF MINUTES OF PREVIOUS MEETINGS

5.1 Approval of Minutes of Meeting Held on 08 March 2013

This matter was deferred to the meeting scheduled for 2 June 2013.

5.2 Approval of Minutes of Meeting Held on 28 March 2013

This matter was deferred to the meeting scheduled for 2 June 2013.

6. MATTERS ARISING FROM MINUTES OF THE PREVIOUS MEETINGS

6.1 Action List

This matter was deferred to the meeting scheduled for 2 June 2013.

7. ACTING CHIEF EXECUTIVE OFFICER'S REPORT

The Acting CEO took the Board through his report and highlighted the following:

a) Long Term Turnaround Strategy (LTTS)

The LTTS was completed during the 4th quarter and delivered to the Shareholder on 2 April 2013. The company was progressing towards a full scale implementation of the strategy with the Balanced Score Card (BSC) being finalised. Some elements of the LTTS were already being implemented. The codeshare arrangement between Etihad Airways and SAA was cited as one of the examples.

b) Cost Compression

This initiative was ongoing and was being aligned to the LTTS.

c) Revenue Enhancement

On a full year basis, the unit revenue (RASK) increased by 38%, 21% and 27% for International, Regional and Domestic routes respectively. There were also codeshare arrangements which were being entered into or renegotiated with a

view to enhancing the SAA network with the ultimate goal of increasing revenue.

d) Liquidity

The company's liquidity position had started to show improvement.

e) Governance

There had been substantial decrease in transgressions reportable in terms of the Public Finance Management Act, 1999 (the PFMA).

f) Stakeholder Relations

There had been a marked improvement in the relationship with the Department of Public Enterprises (DPE) and other Government Departments. The improvement was mainly attributable to engagements on the LTTS and engagements through the Chairpersons' and CEOs' Forum.

The company intended to strengthen the stakeholder engagement function through consolidation of the Stakeholder Engagement function and the Chairperson's Office. **CEO**

With regard to ensuring alignment and integration between the group companies, it was stated that there was an intention to replicate the DPE Chairpersons' and CEOs' Forum. A similar forum should be established to discuss matters of strategic importance between SAA and its subsidiaries. **CEO**

g) Media

SAA had received relatively positive publicity during the period under review. This was attributable to codeshare arrangements announced by SAA, the successful delivery of the LTTS to the Shareholder and the recent accolades on employment equity.

h) IATA Annual General Meeting

The Acting CEO announced that the Board members would receive invitations to the IATA Conference. He further reported that he would lead the SAA delegation to the Conference.

i) Wide Body Tender

The wide body transaction was viewed as a high risk transaction of substantial magnitude.

It was reported that the tender process for the wide body aircraft would be re-opened. A proposal was made that an independent and external person or service provider be appointed to oversee the tender process.

One of the members contended that the Board must be responsible for overseeing the tender process and should not delegate this responsibility to an external person. It was pointed out that the Board should instead consider appointing a transaction advisor as the wide body transaction was significant and complex. The Board deliberated on this proposal. It was further mentioned by one of the members that DPE had offered to provide support to SAA in terms of providing advice and guidance. However, most of the members were of the view that expert advice on legal and corporate finance matters would be required to support SAA with this mega project or transaction. CEO

The Board then proceeded to raise questions and make comments on the Acting CEO's report as follows:

j) Fruitless and Wasteful Expenditure / Irregular Expenditure

The Board enquired as to what was being done against employees involved in irregular and fruitless and wasteful expenditure. It was stated that the GM: Human Resources had been requested to provide a report on actions taken against employees who transgressed policies and procedures.

The Acting CEO undertook to circulate a list of cases once received from Human Resources. CEO

k) Etihad Codeshare Arrangement

An update on the Etihad codeshare agreement was requested. The Acting CEO advised that the agreement or arrangement would be implemented in two phases. During the first phase, SAA would place its code on 12 points of Etihad's network while they would place 10 points on SAA's network.

The second phase would entail commencement of operations in Abu Dhabi. The Acting CEO also mentioned that Etihad had extended an invitation to the Board to visit their company for the purpose of benchmarking certain practices.

The Board requested for information that would reflect benefits being derived from the Etihad agreement. CEO

The Board further enquired whether or not the risk in relation to Emirates had materialised. The Acting CEO advised that the risk had not materialised and that management was monitoring it.

l) East London Flight Cancellation

The Board expressed its concern that the cancellation of an East London flight due to adverse weather could have been handled better from the

Communications point of view. It was pointed out that communications was one of the major areas that required serious attention at SAA. The Acting CEO agreed and reported that management was taking steps to improve communications and the remedial actions included the appointment of a Social Media Specialist. **CEO**

m) Chairperson's Office

The office of the Chairperson should be the face of the Board and SAA. Currently this Office was not strong and should be profiled and capacitated correctly. The Acting CEO agreed that the Office of the Chairperson had to be strengthened and indicated that Human Resources would assist with reviewing the function and the current structure. **GM: HR/ CoSec**

n) CEO's Report

The CEO's report must include information about the Company's Performance against the Key Performance Indicators (KPIs). The report should also indicate key milestones towards key objectives so that the Board could be able to track progress. **CEO**

o) Broad Based Black Economic Empowerment – Level 5

SAA should put plans in place to improve its BBBEE contribution level. It was impressed upon management that it should focus mainly on enterprise development as it was one of the areas in which SAA was not doing well. It was pointed out that SAA could learn a lot from Transnet in this regard. **CPO**

p) Cost Structure

The SAA costs structure required some changes for SAA to improve its financial performance. **CFO**

q) SAA's Licence to Harare

Management was requested to ascertain from the Air Services License Council the reasons for not granting SAA's application for 5 additional frequencies to Harare. **Acting GM: Commercial**

r) National Transport Movement (NTM)

The Board requested for an update on the developments around NTM since the Board's decision not to recognise the union. The Acting CEO reported that the union was not posing any threat to SAA.

s) Communications

The Board further pointed out that SAA needed a communications company to provide support to the Communications unit. The services of a communications company should be secured through a formal process as soon as possible. **Group Exec: Corporate Affairs**

DCM

The Board further decided that the LTTS Committee should oversee matters relating to communication until a decision was made on the most appropriate committee.

t) **Cape Town - Durban Route**

A question was asked as to whether or not SAA was doing something about the Cape Town-Durban route. The Acting CEO explained that the route was on the radar and would be dealt with as part of the LTTS implementation process.

The Board requested that a letter be written to the Minister explaining that the route was receiving attention and that it was covered in the LTTS. **Acting GM: Commercial**

7.1 Specific Matters for Noting/Discussion

7.1.1 IATA AGM

This matter was dealt with in the Acting CEO's Report.

7.1.2 Star CEB Attendance

This matter was dealt with in the Acting CEO's Report.

7.1.3 Formation of Group Chairpersons' and CEOs' Forum

This matter was dealt with in the Acting CEO's Report.

7.1.4 Creation of Chairpersons CSI Fund

The Acting CEO reported that in the engagement with other state owned entities, at the Chairpersons' and CEOs' Forum, SAA was advised of Chairperson's CSI Fund through which the CSI initiatives could be channelled. The Fund, if created, should fall under the control of the Board and would be operated in accordance with well-defined policies and procedures. He mentioned that Transnet had such a Fund and that SAA could use the Transnet's Fund as a benchmark.

7.1.5 Attendance at the Paris Air Show

The Acting CEO reported on the Paris Air Show which was scheduled to take place from 17 – 21 June 2013 and mentioned that the Minister and SAA would be attending.

8. CHIEF FINANCIAL OFFICER'S REPORT **Noting**

The CFO's report was deferred to the meeting scheduled for 2 June 2013.

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9. STRATEGIC / FINANCIAL MATTERS

9.1 Cease Own Metal Operations to Beijing – China

The Acting CEO tabled a report on the Beijing route and pointed out that SAA would benefit from withdrawing from this route as it had remained unprofitable. He indicated that for budget purposes, an assumption had been made that SAA would cease operating its own metal on the Beijing route from 1 September 2013.

The Acting CEO further indicated that the final approval to exit the Beijing route would have to be granted by the Minister. Therefore, the proposal would be referred to the Shareholder once approved by the Board.

The Board requested management to improve the submission to be presented to the Minister in terms of the Public Finance Management Act by:

- giving the context to this whole matter as outlined in the LTTS; and
- furnishing the Minister with a communication plan due to the sensitivity of this matter.

Acting GM: Commercial

The Board **RESOLVED** that SAA cease own metal operations between Johannesburg and Beijing (China) and service China via its Hong Kong service with a codeshare relationship or through a strategic Middle East partner; subject to the Minister's approval in terms of the Public Finance Management Act.

CEO 2013/05/01

9.2 Cease Own Metal Operations to Buenos Aires

The Board considered the submission on SAA's cessation of own metal operations to Buenos Aires and **RESOLVED** that SAA cease own metal operations between Johannesburg and Buenos Aires and SAA service this destination with a codeshare relationship with a Star Alliance Partner TAM via Sao Paulo; subject to the Minister's approval in terms of the Public Finance Management Act.

CEO 2013/05/02

9.3 Cease Own Metal Operations to Bujumbura and Kigali Route

The Board considered the submission on SAA's cessation of own metal operations between Johannesburg, Bujumbura and Kigali; currently operated by SAA and impressed upon management to ensure that when an application in terms of the Public Finance Management Act was made to the Minister, the submission was improved by giving the right context and making reference to the LTTS. The Board further pointed out that it would be necessary to lobby the Minister and the Department beforehand in order to ensure SAA got their buy-in.

The Acting CEO undertook to seek guidance from Ms Lepule and the DDG: Transport, Ms Modise.

The Board **RESOLVED** that SAA's cessation of own metal operations between

2013/05/03

DCM

Johannesburg, Bujumbura and Kigali, currently operated by SAA, with immediate effect, be and is hereby approved subject to PFMA approval. CEO

9.4 New York Service from Direct to Seasonal One Stop Operation

The Acting CEO requested the SAA Board of Directors to approve SAA's resumption of one stop operations seasonally to New York via Dakar (Senegal) from November to March using an A340-300 with immediate effect.

The Board **RESOLVED** that the one stop operations to New York via Dakar, Senegal, from November to March using an A340-300 be and is hereby approved subject to PFMA approval. CEO 2013/05/04

9.5 Approval to Further Sublease of 2 Aircraft to Mango

The Acting CEO took the Board through his submission on the above matter and requested the Board to approve the sub lease of 2 (two) B737-800 aircraft to Mango for the remainder of the lease period. He explained that after taking delivery of the 2 (two) A320 aircrafts in June and July 2013, SAA would have excess capacity while in the converse, Mango would be having less capacity.

It was pointed out to the Board that SAA was currently paying USD300 000 for the aircraft and this amount was above the market rate. Mango would pay SAA at the market rate which was in the region of USD232 000.

The option to sublease the aircraft to Mango would help Mango which had less capacity and on the other hand, cushion the loss SAA could sustain if it were to park the aircraft until the expiry of the leases. It was mentioned that the leases were due to expire in the second and third quarters of 2015.

The Acting CEO further advised that the sublease had been approved by the Mango Board.

In response to a question, he advised that one aircraft was going to replace an existing Mango aircraft while the other aircraft would represent Mango's current year growth.

The Board **RESOLVED** that the sublease of two Boeing 737-800 aircraft to Mango for the remainder of the current aircraft lease agreements, at the market rate, be and is hereby approved. 2013/05/04

9.6 Approval to Negotiate Lease Extensions for Two Boeing 737-800 Aircraft for a Period Not Exceeding 60 Months

The Acting CEO explained that the purpose of this submission was to request the

Board to mandate Mango to negotiate an extension of the lease agreement in respect of two Boeing 737-800 which would be sublet to Mango by SAA as per the aforegoing decision.

With regard to the rental, the Acting CEO advised that Mango should negotiate rental equal to the current market rate of USD232 000 per month per aircraft or not more than 5% of the current fleet average. In response to questions, he further explained that engagement with head lessors regarding the extension had to be done concurrently with the sublease because Mango would have to paint and invest in seats and *wifi* when it took delivery of the aircraft from SAA.

It was stated that Mango would enter into a new lease with the head lessors after the expiry of the SAA head lease and pay the rental at the rate it would have negotiated.

The Acting CEO added that this matter would require the approval of the Shareholder in terms of the Public Finance Management Act.

The Board requested management to develop a capacity schedule relating to aircraft which would be entering and exiting the SAA fleet in order to ensure that SAA did not end up with excessive capacity. **CFO**

The Board **RESOLVED** that Mango be and is hereby mandated to negotiate lease extensions on two Boeing 737-800 aircraft currently being considered by the SAA Board for sublease to Mango, subject to the following conditions:

a) Mango negotiating rates that are equal to or not more than 5% of their current fleet average;
b) Mango obtaining the requisite approval from the executive authority in terms of the Public Finance Management Act; and
c) Mango entering into lease extension agreements not exceeding 60 months.

2013/05/05

9.7 Approval to Extend 6 Leased Aircraft with GECAS for Another 4 Years

The Acting CEO requested the Board to approve that SAA extend the lease agreements in respect of the following 6 (six) aircraft sublet to Mango for a further period of 4 (four) years:

1. SJG 32353;
2. SJH 32354;
3. SJK 32355;
4. SJL 32356;
5. SJO 32357; and
6. SJP 32358.

The extension should be for a period of 4 (four) years from 2016 and 2017 when the current leases expire.

The Board pointed out that SAA should make a strategic decision on whether it wanted to have a 'single fleet' or 'dual fleet' operation. SAA had to make a conscious decision on whether it wanted to partner with both Boeing and Airbus or with one of them. The LTTS Committee was requested to have a strategic conversation on this matter with an end state in mind and make recommendations to the Board. **Chair of LTTSC/CoSe**

In response to the above proposal, the Acting CEO mentioned that Mango was a 'single fleet' operation.

He added that SAA was already partially starting to implement this thinking with regard to the wide body aircraft. He reported that the terms of reference in respect of the wide body tender were being formulated as a 'problem statement' as opposed to a 'need statement'.

It was further pointed out that the SAA Group should, when looking into this, adopt a view that recognised that the SAA Group had distinct brands and position the Group at brand level.

The Board **RESOLVED** that 2013/05/06

1. the extension of the sub lease agreements in respect of above mentioned 6 (six) aircraft for a further period of 4 (four) years be and is hereby approved.
2. the CFO and CEO of Mango be and are hereby authorised to execute the transaction.

9.8 Employees Share Trust

9.8.1 Update

The CFO informed the Board that SAA had an Employee Share Trust which was established in or about 2000. The Trust held about 117 000 000 shares in South African Airways.

He further reported that, as and when the shares were sold to the employees, repayments were made on loan. The total loan amount was R62,7 million. When SAA was corporatised and Transnet disposed of its shareholding in SAA, the loan account was transferred to the Government represented by DPE.

The CFO explained that SAA's intention was to wind up the Trust and have all the shares transferred to the Government of the Republic of South Africa. To this end, the Trust would have to settle its liabilities and dispose of its assets. A proposal had been made to DPE to accept the Trust's E-Class shares in full and final settlement to

DCM

the loan account. This would result in the government being the sole shareholder of SAA. The company is currently awaiting a response from the DPE.

The report was noted.

9.8.2 Appointment of Two Trustees

The Company Secretary informed the Board that the Board of Trustees of the SAA Employee Share Trust had to be regularised as there was only one Trustee on the Board since the death of Mr Z Sithole and the resignation of Mr PJ Ndhlovu from the SAA Board and all SAA governance structures. He requested the Board to appoint additional Trustees to the SAA Employee Share Trust.

The Company Secretary went on to mention that this matter had been deliberated upon by the Audit Committee and the recommendation of the Audit Committee was that two additional trustees be appointed. The Audit Committee nominated the following people for appointment :

1. Chair of Audit, Ms Y Kwinana;
2. Member of Remco, Mr B Mpondo;
3. Member of Remco, Mr A Mabizela; and
4. General Manager: Human Resources: Ms T Mpshe.

After deliberations, the Board **RESOLVED** that : 2013/05/07

1. Ms Y Kwinana and Mr B Mpondo be and are hereby appointed to replace the late Mr Z Sithole and Mr PJ Ndlovu who resigned from the Board of Trustees; and
2. Mr A Mabizela and Ms T Mpshe be and are hereby appointed as additional members to the Board of Trustees.

9.9 Financing of the Airbus A320 Transaction

The CFO took the Board through his submission on the above matter and highlighted the following:

- SAA entered into an agreement with Airbus for the purchase of A320-200 Aircraft in 2002. The agreement had been amended twice since its conclusion. The total cost of the aircraft (excluding escalation) was USD 701.7 million.
- The payment for the aircraft was structured through three interim pre-delivery payments (PDPs), and a final payment per aircraft was to be made upon delivery. The PDPs made as at the date of the meeting amounted to USD140 million.
- The PDPs and final delivery payment obligations drained the company's liquidity.
- The transaction was consequently changed from an outright purchase to a sale-and-leaseback transaction.
- In 2012, the Board approved a submission recommending an award of the tender for the sale-and-leaseback of 20 (twenty) A320 aircraft to Bank of China (BOC) Aviation.

DCM

- After the resignation of the previous Board and postponement of the AGM, the BOC indicated that it would pursue the transaction once the 2011/12 annual report was published.
- Attempts were made to get finance from local financiers, such as the Public Investment Corporation (PIC) and the Development Bank of Southern Africa (DBSA), without success.
- The BOC was engaged again but it indicated that due to the latest developments at SAA, it would only be willing to finance 10 (ten) aircraft.
- It was then decided that the bidding process be reopened to three final bidders for the best and final offer. The most favourable offer received at the conclusion of the process was that of Pembroke Capital, a subsidiary of Standard Chartered Plc.

The Board enquired whether this transaction was for the first ten aircraft and whether a local financier could still be sought for the next ten. The CFO replied in the affirmative and stated that a local financier would be sought for the next ten aircraft.

The CFO further reported that Pembroke was available to do a presentation to the Board. The Board debated the necessity and appropriateness of taking a presentation from Pembroke.

At this stage Management was excused from the meeting and they returned after a short while.

The Board expressed its displeasure at how this transaction had been handled and generally about the late submissions on the matter from Finance. It was pointed out that this submission was terribly late and the Board was given a very short time to consider such a complex matter. It was mentioned that during Mr Kona's tenure as the Acting CEO, the Board had impressed upon management that it wanted transparency in how this transaction was going to be dealt with.

Ms Roskruge invited the CFO to have a one-on-one session with her where she would give the CFO feedback on all the matters the Board was concerned about.

The CFO responded to the Board on its concerns and stated that he had done everything in his power to have this matter tabled before the Board in time. He stated that a final offer was made late in April 2013 and the tender was finalised in May 2013. He further reported that he requested for a special Board meeting which request was not granted. He could have presented everything to the Board or taken the Board along, but the meeting did not take place.

The Board requested the CFO to respond to the concerns raised by the Board in writing. CFO

DCM

The Board then proceeded to comment on the submission and requested that the following matters be addressed: CFO

- This transaction should be based on a local currency as opposed to a foreign currency.
- The impact on the cash flow and interest benefit of the maintenance reserve payment to SAA should be quantified.
- The comment about the Deputy Minister should be deleted or put in the correct context.
- An explanation should be given to DPE in the Application in terms of Section 54 of the Public Finance Management Act why SAA failed to meet the December 2012 deadline for raising finance for the aircraft.
- SAA should be entitled in terms of the agreement to sublet the aircraft to its subsidiaries.

The Board impressed on management again that matters requiring Board approval must be submitted to the Board in time to accord it adequate opportunity to consider them properly.

The Board then **RESOLVED** that: 2013/05/08

1. the update on the A320 sale-and-leaseback transaction and the process followed be and is hereby noted.
2. the initial award of the A320 sale-and-leaseback of 20 (twenty) aircraft to Bank of China Aviation approved by the Board on 6 September 2012 be and is hereby cancelled or withdrawn.
3. the sale-and-leaseback of the first ten A320 aircraft be and is hereby awarded to Pembroke Capital.
4. the approval for the change of the nature of the transaction from an outright purchase transaction to an operating lease (sale-and-leaseback) transaction be and is hereby granted.
5. the terms and conditions of the sale-and-leaseback agreement be reviewed and approved by the Board before signature. CFO

9.10 Draft Memorandum of Incorporation

This matter was deferred to the meeting scheduled for 2 June 2013.

9.11 Liquidation of Entities Set Up for Previous SAA Aircraft Lease Structures

This matter was deferred to the meeting scheduled for 2 June 2013.

9.12 SAA Rebranding

During the presentation of his Report, the Acting CEO took the Board through the

proposal on rebranding. He referred the Board to Design Variations and pointed out that management was recommending that Option 3 be approved by the Board.

It was explained, in response to a question, that brand refresh was aimed at, *inter alia*, updating and adding consistency to the SAA Brand which had not been refreshed over a period of 7 years.

The Board **RESOLVED** that Design Variation: Option 3, be and is hereby approved. 2013/05/09

9.13 Comair *v* SAA – Report

This matter was deferred to the meeting scheduled for 2 June 2013.

10. REPORTS FROM COMMITTEES OF THE BOARD

10.1 AUDIT COMMITTEE REPORT

This matter was deferred to the meeting scheduled for 2 June 2013.

Recommendations of the Audit Committee

10.1.1 Audit Committee Terms of Reference

This matter was deferred to the meeting scheduled for 2 June 2013.

10.1.2 2012/13 Draft Annual Financial Statements

The Chairperson of the Audit Committee advised the Board that the Audit Committee had considered the draft financials and was happy to recommend them to the Board for approval. She mentioned that they were not distributed on time despite the fact that the Audit Committee meeting had to be moved to accommodate Finance.

Regarding the results, one of the Board members commented that there was a good story to be told about the performance of SAA in light of the Earnings Before Interest, Tax, Depreciation and Amortisation (EBITDA). He suggested that SAA should, from a public relations point of view, use these results to write a positive story about its performance.

The Board decided that the Draft Financial Statements 2012/13 be submitted to the Auditors for auditing. **CFO**

10.1.3 Preliminary Audit Findings (including the Going Concern Update)

This matter was deferred to the meeting scheduled for 2 June 2013.

10.1.4 Annual Review of the Financial Risk Management Policy

This matter was deferred to the meeting scheduled for 2 June 2013.

10.1.5 Annual Review of the Terms of Reference of the Financial Risk Sub-Committee ("FRSC")

This matter was deferred to the meeting scheduled for 2 June 2013.

10.1.6 Approval of Guarantees & Standby Letters of Credit

This matter was deferred to the meeting scheduled for 2 June 2013.

10.1.7 Annual Review of SAA Counterparty Limits

This matter was deferred to the meeting scheduled for 2 June 2013.

10.1.8 Cash and Liquidity Position Report

This matter was deferred to the meeting scheduled for 2 June 2013.

10.1.9 Hedge Performance Report

This matter was deferred to the meeting scheduled for 2 June 2013.

10.1.10 Credit Risk Report

This matter was deferred to the meeting scheduled for 2 June 2013.

10.1.11 Interest Rate Report

This matter was deferred to the meeting scheduled for 2 June 2013.

10.2 REMUNERATION AND HUMAN RESOURCES COMMITTEE REPORT

This matter was deferred to the meeting scheduled for 2 June 2013.

10.3 SOCIAL, ETHICS, GOVERNANCE AND NOMINATIONS COMMITTEE REPORT

This matter was deferred to the meeting scheduled for 2 June 2013.

10.4 PROCUREMENT AND TENDER PROCESSES COMMITTEE REPORT

Recommendations of the Committee

This matter was deferred to the meeting scheduled for 2 June 2013.

10.4.1 Terms of Reference of the Procurement and Tender Processes Committee

This matter was deferred to the meeting scheduled for 2 June 2013.

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10.4.2 Award of Maintenance Services for SAA's A319 and A320 V2500

Engines

It was reported that the Procurement and Tender Processes Committee had, in its last meeting, recommended that the Maintenance Services for SAA A319 and A320 V2500 Engines be awarded to the Original Equipment Manufacturer (OEM), International Aero Engines (IAE), for a period of 5 (five) years, subject to the following conditions:

1. SAA reserved a right to cancel the contract with IAE at no cost to SAA when SAAT's capability was improved to the level that it could undertake the work before the expiration of the 5 year period.
2. The agreement should also provide for the commitment by IAE to provide an investment of USD3.75 million to SAAT and for clear timelines in this regard.

The Acting CEO requested that the period of 5 years be changed to 6 years. The reason for the change was that the contract would terminate before the first scheduled maintenance event occurred. It was further submitted that the 5 year period would not be sufficient for the A320. The Acting CEO advised that the contract intervals would have to be at least 6 or 12 years.

The Board **RESOLVED** to approve the award of maintenance service contract to IAE, as the maintenance services provider for SAA's V2500 Engines for a period of 5 years for the A319's, 6 years for the A320's BOC engines, and 12 years for each of the new A320's joining the SAA fleet. 2013/05/10

10.5 *AD HOC* COMMITTEE ON LITIGATION REPORT

This matter was deferred to the meeting scheduled for 2 June 2013.

10.6 LONG TERM TURNAROUND STRATEGY COMMITTEE REPORT

This matter was deferred to the meeting scheduled for 2 June 2013.

11. REPORTS OF SAA SUBSIDIARIES

This matter was deferred to the meeting scheduled for 2 June 2013.

11.1 AIRCHEFS SOC LTD REPORT

This matter was deferred to the meeting scheduled for 2 June 2013.

11.1.1 4th Quarter Report

This matter was deferred to the meeting scheduled for 2 June 2013.

11.2 SOUTH AFRICAN AIRWAYS TECHNICAL SOC LTD REPORT

This matter was deferred to the meeting scheduled for 2 June 2013.

11.2.1 4th Quarter Report

This matter was deferred to the meeting scheduled for 2 June 2013.

11.3 **MANGO SOC LTD REPORT**

This matter was deferred to the meeting scheduled for 2 June 2013.

11.3.1 4th Quarter Report

This matter was deferred to the meeting scheduled for 2 June 2013

11.4 **SOUTH AFRICAN AIRWAYS CITY CENTER SOC LTD (SATC) REPORT**

This matter was deferred to the meeting scheduled for 2 June 2013.

11.4.1 4th Quarter Report

This matter was deferred to the meeting scheduled for 2 June 2013.

12. GOVERNANCE

This matter was deferred to the meeting scheduled for 2 June 2013.

12.1 4th Quarter Report

This matter was deferred to the meeting scheduled for 2 June 2013.

12.2 Round Robin Resolutions

This matter was deferred to the meeting scheduled for 2 June 2013.

12.3 Board/Committees/Subsidiary –Attendance Registers

This matter was deferred to the meeting scheduled for 2 June 2013.

13 CLOSURE

The meeting was adjourned.

CHAIRPERSON

Date: 28/07/2013.

COMPANY SECRETARY

Date:

ANNEXURE "MB5"

COMMISSION OF INQUIRY INTO STATE CAPTURE

SOUTH AFRICAN AIRWAYS
A STAR ALLIANCE MEMBER

CONFIDENTIAL

MINUTES OF THE SOUTH AFRICAN AIRWAYS SOC LTD BOARD OF DIRECTORS MEETING (2013/05) HELD ON SUNDAY 02 JUNE 2013, IN THE BOARDROOM, PEPPERCLUB HOTEL, CNR. LOOP AND PEPPER STREET, CAPE TOWN AT 10H00

Resolution No/

For Attention

1. OPENING, WELCOME, EVACUATION PROCEDURE, CONSTITUTION OF THE MEETING AND SIGNING OF ATTENDANCE REGISTER

Present:

Ms. D Myeni	Acting Chairperson SAA Board: (Chairperson)
Mr. A Khumalo	Non-Executive Director
Mr. B Mpondo	Non-Executive Director
Ms. Y Kwinana	Non-Executive Director
Ms. R Lepule	Non-Executive Director
Dr. R Naithani	Non-Executive Director
Ms. C Roskruge	Non-Executive Director
Mr. M Kalawe	SAA CEO
Mr. N Bezuidenhout	SAA Acting CEO
Mr. W Meyer	SAA CFO

In Attendance:

Ms. M Makhakhe	Deputy Company Secretary

Apologies:

Mr. A Mabizela	Non-Executive Director
Ms. N Kubeka	Non-Executive Director
Adv. L Nkosi-Thomas	Non-Executive Director
Mr Sandile Dlamini	Company Secretary

The Chairperson welcomed all present, noted apologies and declared the meeting open. It was noted that the meeting was a continuation of the Board meeting held on 27 May 2013. Management was commended for the well organised IATA Board of Governance dinner the previous night.

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The Chairperson informed the Board that the newly appointed CEO had commenced employment on 1 June 2013 and had been invited to the meeting. The Acting CEO enquired about the transition period between him and the new CEO, as he did not want to work outside delegated authority. He highlighted to the Board that the Civil Aviation Authority (CAA) Regulations did not provide for the position of a CEO and Acting CEO concurrently.

It was stated that the Board would discuss the matter in-camera and advise him accordingly, however, in the meantime he should continue with his responsibilities as Acting CEO until there was a full handover.

2. APOLOGIES

Apologies from Mr A Mabizela, Ms Y Kubeka, Advocate L Nkosi-Thomas and Mr S Dlamini were noted.

3. ADOPTION OF THE AGENDA

The agenda was adopted without any amendments.

4. DECLARATION OF INTEREST

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

Declaration of Interest Form was signed by Members.

5. APPROVAL OF THE MINUTES

5.1 Minutes of the Meeting held on 08 March 2013

The minutes of the meeting held on 08 March 2013 were approved with the following amendments:

- Page 8, item 7.1 (j) to change the title of the paragraph to Minister's Address: 'A320 Financing'. To also insert as the third sentence that the tender was reopened for all three bidders.
- Item 9, second paragraph on page 12, third sentence, to add that '...access this amount subject to certain conditions being met.'
- Item 11(c) table B and C to correct Dr. R Naithani's initials from J to R.

5.2 Minutes of the Meeting held on 28 March 2013

The minutes of the meeting held on 28 March 2013 were approved without any

DCM

amendments.

6. MATTERS ARISING FROM PREVIOUS MEETINGS

6.1 Action List

a) Long Term Turnaround Strategy

It was reported that the meeting to consider the LTTS was held on 28 March 2013 and the LTTS was approved for submission to the Minister. **Matter Closed**

b) Board Induction

It was reported that the Company Secretary circulated the presentation which was to be presented by the Chief Director: Aviation at the induction. **Matter Closed**

c) SAA Rebranding

It was noted that feedback from Board Members had been obtained and further research conducted on the Brand refresh. It was further noted that the revised branding was approved at the Board meeting held on 27 May 2013. The Acting CEO reported that he had requested a full roll-out plan from Marketing and had directed that all branding items which were dissimilar to the branding approved on 27 May 2013 should be utilised for internal marketing to avoid fruitless and wasteful expenditure. **Matter Closed**

d) Dashboard on Matters Requested by the Minister

It was reported that matters on the dashboard had been followed up by the Company Secretary and all matters had been concluded except for ongoing action items.

The Board requested the Company Secretary to circulate the updated dashboard electronically to the Board before the next Board meeting. It was stated that the dashboard should also include conditions attached to all SAA Government guarantees. **Co Sec**

e) Minister's Address: LTTS

It was reported that the letter requesting a session with the Minister to discuss the LTTS was written and the session took place on 5 April 2013. **Matter Closed**

f) Minister's Address: A320 Airbus Transaction

The CFO reported that he had received a letter with conditions from the PIC. The Board requested the CFO to circulate the letter to the Board including feedback from other Banks with regard to the A320 transaction. **CFO**

g) Delegation of Authority (DoA)

The revised DoA was presented to the Audit Committee on 20 and 27 May 2013 but was **Co Sec**

DCM

referred back to Management to ensure its alignment with the LTTS, particularly the governance structure of SAA's subsidiaries. Thereafter, the revised DOA would be submitted to the LTTS Committee for review and to the Audit Committee and the Board for approval through round robin.

h) Communication with the Media

It was reported that the main body of the Communication Strategy was presented to the LTTS Committee on 09 May 2013 but was sent back for refinement, where after it would be resubmitted to the LTTS Committee. **Co Sec**

The Chairperson of the LTTS Committee requested that the Communication Strategy be circulated to the Board as a matter of urgency.

The Board stated that the plan was that once the LTTS was finalised it would be communicated to the media but this was overcome by challenges within SAA's Communications Department and had not materialised as anticipated.

Ms. Lepule joined the meeting.

i) Restructuring of the Communications and Marketing Departments

The Acting CEO reported that Management would submit to the Board, the proposed changes to the Communications and Marketing Departments and how the capacity of the two Departments would be improved.

The Board highlighted that the incoming CEO should be briefed about the importance and urgency of capacitating the Communications and Marketing Departments as well as ensuring alignment between the two functions. **Acting CE / CEO**

j) Cash and Liquidity Position – Government Support

It was reported that the Shareholder had approved and signed-off the guarantee and the R1544 million term loan was concluded. **Matter Closed**

The Board requested accuracy in providing status updates to action items. Members stated that according to the consolidated cash flow report presented to the Board on 8 March 2013, SAA would require Government support to the tune of R320 million, R687 million and R817 million in January, February and March 2013 respectively, but no feedback had been provided to the Board as to whether the funds were still required.

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The CFO reported that cash flows improved sufficiently to cover operations within the first quarter of the financial year and therefore Government support was not required.

The Board also requested Management to brief the Board on the outcomes of round robins either by electronic communication or at the subsequent meeting of the Board.

The Audit Committee Chairperson reported that although the re-financing of the A320 PDPs would relieve some pressure on the cash flows, the External Auditors had requested the R4.5 billion equity injection required in the LTTS to be approved for SAA to receive a clean audit. Otherwise, SAA would require Government guarantees to be declared a going concern.

The CFO reported that auditors considered a 17-month period in the going concern calculation, which ends in August 2014. However, the current R5 billion guarantee would expire in September 2014. He reported that there was a meeting scheduled the following day between SAA, the DPE, National Treasury (NT) and the External Auditors to ascertain what would ensure an unqualified audit and whether the approval of the LTTS by the DPE as well as the NT would be sufficient without specifying the equity injection.

The Board requested the CFO to write to the DPE to confirm the approval process for the LTTS. It was noted that the Minister had pronounced repeatedly that the LTTS was the Board's Strategy and would only be submitted to Cabinet for noting. However, there seemed to be expectations that there would be formal approval from the DPE and NT. Therefore, it was critical to confirm who the ultimate approval authority was for the LTTS. CFO

The Board enquired about the financial position of the company, and the CFO reported that without the refinancing of the PDPs, the company would be in financial crisis. Added to that, it was reported that the Rand had slipped to unprecedented levels against the USD adding to the pressure.

It was reported that there were three options to be pursued by Management for SAA to be declared a going concern:

(a) Approval of the R4.5 billion cash injection,
(b) A new Government guarantee, or
(c) Extension of existing guarantees.

It was noted that NT had highlighted that if SAA required the extension of the Government guarantee by August 2014, SAA would have to submit an application by 20 June 2013.

Members requested Management to explore the possibility of accessing the R3.5 billion which was part of the R5 billion guarantee on the premise that the Rand had weakened substantially. Should this be considered a necessary step, the Board advised that Management should be forthright to the DPE about what the funding would be utilised for.

The Board highlighted that a fourth condition to the R5 billion guarantee was that SAA should consider engaging an equity partner and should SAA request an extension to the guarantee, NT would consider whether all conditions to the guarantee had been fulfilled. On the other hand, it was noted that the Minister had categorically stated that a private equity partnership was not an option for SAA presently. The Chairperson of the Board was therefore requested to write a letter to the Minister requesting clarification with regard to NT's condition to the R5 Billion guarantee requesting SAA to explore engaging an equity partner. The Board stated that the letter should request for confirmation that the matter would be handled at Shareholder level and all enquiries in that regard should be forwarded to the Shareholder representative. **Chairperso**

RESOLVED that:

- The CFO should draft a proposal illustrating trade-offs of the three options proposed above and the impact of each on the balance sheet. **2013/05/01 CFO**
- Once finalised, a Board session should be scheduled to consider the proposals as the proposals had already been considered by the Audit Committee. **Co Sec**

k) Hedge Performance Report

It was reported that there were no hedging losses. The income statement had reflected the negative market to market involvements on the hedging instruments. The hedging profit from the closing financial period was less than the opening financial period which gave rise to the negative movement. **Matter Closed**

l) Terms of Reference for Committees

It was reported that the matter had been overtaken by events, as it would have coincided with recommendations to the Minister on the appointment of the CEO. It was highlighted that a letter from the Minister had also been received citing the Remuneration and Human Resources Committee as the Committee responsible for the process of appointing the CEO. **Matter Closed**

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m) Quarterly Report

The Board was informed that the Acting CEO had discussed the Shareholder's expectations with regard to the Quarterly report with the Deputy Director General: Transport. **Matter Closed**

n) LTTS: Main Thrust and Expected Outcomes

It was reported that the Board of SAX met with the LTTS Committee on 9 May 2013.

The Board was informed that the Chairperson of SAX had requested that copies of the LTTS be made available to the Board of SAX. The Board concluded that the Chairperson should write back to the SAX Chairperson stating that there was representation from SAX at the Executive Turnaround Task Team (ETT) through the SAX CEO and GM: Commercial and at the LTTS level through the SAX CEO, GM: Commercial and Chairperson. Therefore, the SAA Board was of the view that all officials were involved in the formulation of the Strategy and should have been briefing the SAX Board throughout the development of the LTTS. **Chairperso**

The Chairperson informed the Board that a letter had been received from the Minister stating that SAA should refrain from pronouncing on the intention to merge SAA and SAX and to delete reference to the possible merger from the Corporate Plan.

It was noted that the Board was unclear regarding whether the Ministerial Task Team on the LTTS (MTT) was operating optimally and it was agreed that the Acting CEO should engage with the DPE Director General (DG) to ascertain whether the Task Team was functioning. It was noted that the MTT was established to assist SAA with stakeholder management at the Governmental and political level and was therefore crucial to the success of the LTTS. **Acting CEO**

o) Alliances and Joint Venture Strategy

The Acting CEO reported that work was still underway on the selection of a West African hub. The Board advised that Management should involve the Ministry at the early stages of the venture to ensure Shareholder support.

The Acting CEO reported that by the end of June, a full audit on all areas where there were bilateral agreements would have been conducted and a comprehensive list submitted to the Shareholder. **Acting CEO**

The Board was informed that Mango had been approached by Nigerian authorities to expand into Nigeria and the Acting CEO requested approval from the Board to engage

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with the Minister to determine the protocol to be followed when opportunities of this nature arose. The Board granted approval for the Acting CEO to engage with the Shareholder but advised that the matter should be addressed with the DG.

p) Finance Model: Budget, Corporate Plan and Shareholder Compact

It was reported that the LTTS was being refined and once that process had been completed, the budget, Corporate Plan and Shareholder's Compact would be revised and resubmitted to the Shareholder.

q) Partnership with Etihad

It was noted that the proposals on the routes had been considered at the Board meeting held on 27 May 2013.

The Acting CEO reported that a letter had been written to the Minister informing him of the Etihad codeshare for noting purposes, however, the Minister had written back indicating that entering into codeshare agreements was a matter reserved for the Shareholder and therefore a Section 54 application should have been submitted. On consultation with the DG, the DG advised that SAA should write back to the Minister explaining the impact of declaring code shares a Shareholder reserved matter on the airline. It was noted that the draft Memorandum of Incorporation also stipulated that alliances were to be approved by the Shareholder.

The Acting CEO reported that there were different phases of codeshare agreements and at the strategic level, Shareholder approval should be sought but there were phases which were purely operational in which Management required the flexibility to move swiftly when business dictated.

The Board requested Management to submit feedback on the benefits that were being derived from the Etihad and Jet Airways code shares. The Acting CEO was also requested to circulate to the Board the presentation made by the Etihad CEO, if possible. **Acting CEO**

With regard to the fleet plan, the Acting CEO reported that the revised network plan had been sent to the Original Equipment Manufacturers (OEMs) in the Request for Proposal (RFP) but both OEMs had written back to SAA indicating that they would not have sufficient time to respond to the RFP. It was agreed that the Acting CEO should send the letter received from the OEMs to the Board. **Acting CEO**

Mr. M Kalawe joined the meeting.

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r) **Star CEB Attendance and Attendance at the Paris Air Show**

The Chairperson reported that the CEO had been briefed about the clashing events and had agreed with the suggestion that the Acting CEO, together with the Manager: Alliances, attend the Star CEB meeting whilst attending the Paris Air Show to take delivery of the first A320 aircraft.

Mr. Bezuidenhout left the meeting.

7. CHIEF FINANCIAL OFFICER'S REPORT

The CFO's report was taken as read and was noted by the Board.

8. Financing of the Airbus A320 Transaction

It was noted that the financing for the Airbus A320 Transaction had been considered and approved at the Board meeting held on 27 May 2013.

The Chairperson of the Audit Committee reported that since the last Board meeting held on 27 May 2013, the GM: Legal, Risk and Compliance had received the proposed terms and conditions from Pembroke and she raised concerns that the terms were too onerous and the transaction was too risky. In addition, she stated that the financing was linked to the wide-body transaction which was not yet concluded.

The CFO reported that the negotiations on the deal-structuring were being handled by the Legal Department and the CFO was involved where there were issues which required clarification. The Board advised that the CFO should always be present in the negotiations with the GM: Legal, Risk and Compliance. The CFO was also requested to circulate to the Board the preliminary terms submitted by Pembroke. **CFO**

Members stated that the GM: Legal, Risk and Compliance should address her concerns with the CFO and only escalate them to the Board when necessary to, as opposed to engaging individual Members of the Board.

9.10 Draft Memorandum of Incorporation

The Deputy Company Secretary presented the draft MOI to the Board and highlighted that the services of Edward Nathan Sonnenberg (ENS) had been engaged to draft the document. It was reported that the DPE had standardised the MOI for all SOCs reporting

DCM CFO GM

to the Department and Management had engaged with the Shareholder on two occasions to deliberate on specific provisions in the proposed MOI. It was provided that the submission before the Board sought to highlight key provisions in the draft MOI which differed substantially with the current Articles of Association.

The Board was informed that the MOI was submitted to the Board for approval in draft form to allow the Board to raise issues which needed to be re-negotiated with the Shareholder, which were not suitable for SAA's specific circumstances before final approval of the MOI by the Shareholder.

The Board deliberated at length on the MOI and raised the following areas of concern to be addressed by the Secretariat in writing to the Board:

- The MOI was perceived to contain incomplete provisions and Board Members raised a concern with regard to the quality of the document;
- The Board observed that the MOI was of such great importance that the Board should have been afforded a dedicated session to interrogate the submission;
- It should be established whether SAA was compliant with the Treasury Regulations with regard to submission of the Shareholder's Compact, Corporate Plan and Budget over the years;
- Related to the point above, the CFO was requested to draft a budget planning cycle to be submitted to the Board to align with the Treasury Regulations and the provisions of the draft MOI; CFO
- Clauses 3.5.1 and 3.5.2 had a potential to jeopardise the achievement of the LTTS should they be matters reserved for the Shareholder due to the agility required in implementing some of the proposals on the route network plan. Therefore the MOI should propose the possibility of the Shareholder delegating the approval of alliances and route changes to the Board;
- Clause 3.6.2 regarding the annual budget and Corporate Plan should be negotiated to state that the documents should be 'submitted' to the Minister 'by' 28 February each year;
- Management to consider whether clause 10.2 regarding *"submission of management accounts to the Board and the Shareholder at the end of each quarter"* could be revised to be *"submission of management accounts on a monthly basis"*;
- It was highlighted that clause 13.4.5 which stated that the Chairperson of the Board shall not be appointed to or serve as chairperson of any Board Committee or subsidiary board was contrary to current practice therefore proposals should be made on the way forward;

- In the same manner, clause 13.5.1 stating that directors of subsidiaries should be employees of subsidiaries and SAA was contrary to current practice, therefore a pronouncement should be made on whether the proposal was suitable for SAA;
- It was noted that the dismissal of the CEO did not result in the automatic removal as a director;
- The MOI should detail the process for the dismissal of the CEO;
- Why was the quorum of meetings inconsistent with that of round robin resolutions at 60% and majority respectively;
- The rules for holding closed sessions of meetings of the Board should be clearly defined;
- The draft MOI stated that the Board shall establish a maximum of 5 committees, but the SAA Board currently had 6 committees and further, the Ad Hoc Committee on Litigation was not listed in clause 20.3 detailing recognised committees of the Board.
- The Company Secretary was requested to circulate the next draft to the Board.

8. REPORTS FROM COMMITTEES OF THE BOARD

10.1 AUDIT COMMITTEE REPORT

Recommendations of the Audit Committee

10.1.1 Audit Committee Terms of Reference

It was noted that the Audit Committee terms of reference had not been included in the meeting pack but had been recommended to the Board for approval by the Audit Committee.

The Board was informed that the major amendment to the terms of reference was that all matters regarding financial planning and investment had been moved from the Audit Committee to the Procurement and Tender Processes Committee. It was reported that there had been an objection to incorporating oversight on risk management in the Audit Committee terms of reference as Members perceived that risk management did not enjoy sufficient attention as the Committee was over encumbered. The Audit Committee observed that there was no single point of reference with regard to risk management within the organisation and the Audit Committee had requested that a comprehensive enterprise-wide risk management register be submitted to the Audit Committee. It was concluded that the Audit Committee be renamed Audit and Risk Committee as per the amended terms of reference and proceedings at the Audit Committee alternate between audit matters and risk matters.

The Board agreed to consider the terms of reference by round robin.

10.1.2 2012/13 Draft Annual Financial Statements

It was noted that the 2012/13 draft AFS had been approved for submission to the External Auditors on 27 May 2013.

The CFO circulated an amended draft income statement explaining that a re-allocation of R95 million was required with regard to foreign currency translation movements in Maintenance Provisions. This re-allocation impacted the "Maintenance Cost" line and the "Fair value movements and translation losses" line in the income statement and had no impact on the previously reported bottom line result. He furthermore confirmed that it was a re-allocation that was required and not a change in accounting policies.

It was recommended that Nkonki be approached to provide free training to the Board on hedging. It was stated that the training should be at different competency levels from elementary to advanced. **CFO/Co Se**

The adjustments to the 2012/13 draft Annual Financial Statements were noted by the Board.

10.1.3 Preliminary Audit Findings (including the Going Concern Update)

The Chairperson of the Audit Committee reported that the systems problems reported with regard to Voyager had been rectified.

It was reported that the going concern issue was as reported in the meeting earlier.

With regard to litigation, the Board was informed that the External Auditors had requested that the provision be raised from R100 million to R150 million.

It was reported that the adequate provision for doubtful debt in respect of old 747-400 inventory held by SAAT would be addressed by SAA and SAAT.

The Chairperson of the Audit Committee reported on audit findings for Air Chefs regarding internal controls over receiving, recording and issuing of inventory in the stores area as well as security controls which did not operate effectively throughout the year. It was reported that as a result of these control weaknesses, Management was not able to effectively monitor inventory levels, wastage and pilferage during the year, however, Management estimated that approximately R24 million of stock variance adjustments were as a result of wastage, pilferage or a combination of both. The Board was informed that for Air Chefs to receive an unqualified audit, these issues should have been addressed by 31 July 2013.

The Chairperson of the Board stated that both the CEO and CFO of Air Chefs should have appeared before the Board to explain why these issues had not been addressed. She stated that since 2010 when she sat on the Air Chefs Board, Management was in the process of addressing these issues but it seemed as if it was no closer to resolution three years later. The Board expressed great dissatisfaction with the performance of Air Chefs and called for decisive action to be taken against Management. CEO

Whistle-blowing Report on Air Chefs

The Chairperson of the Audit Committee reported that the Chairperson of the SAA Board had received a whistle-blower report regarding alleged misconduct at Air Chefs. It was reported that the matter had been raised at the Audit Committee and the Committee had stated that there was a need to develop a formal process for escalation of issues raised by whistle blowers to the Board.

It was agreed that the email be read out to the Board. The email raised amongst others, the following issues:

- Deltyone; the supplier of muffins and bread rolls was paid in excess of R5 million per month;
- In April, stock amounting to R15 million was dumped, it should be investigated whether it was dumped or whether there were irregularities. It should be investigated where the stock was dumped and by who;
- Why were there senior positions to be filled whilst the company was making a loss;
- The company was losing clients, for example, Turkish Airways, Kenyan Airways, Egypt Air;
- The salary of the CEO and the CFO were being paid by SAA;
- The stock ordered was never equal to stock delivered every month;
- Penalties imposed by SAA last financial year amounted to R8 million;
- Project Kusasa should be investigated;
- There was no preferential procurement;
- Why was Onenda Mkhushulwa fired.

The Chairperson of the SAA Board reported that she had not acted on the email but had sent the email to the Air Chefs Chairperson for the matter to be addressed by the Air Chefs Board. She stated that the whistle blower had referred the matter to the Ethics Institute of South Africa due to perceived inaction on the part of SAA.

RESOLVED that:

- The Chief Audit Executive should proceed to investigate the allegations;
- An email should be sent to the whistle blower informing him/her that the email had been submitted to the Air Chefs Board to be addressed;
- The Board noted that the Audit Committee had recommended that the reporting structure for blowing the whistle on senior management should be reviewed as currently reports were being sent to an internal resource;
- The Company Secretary should circulate the resolution of the Audit Committee regarding the proposed whistle blowing process to the Board before the next meeting of the Board. **Co Sec**

10.1.4 Annual Review of the Financial Risk Management Policy

The Board noted the Audit Committee's recommendation to approve the revised Financial Risk Management Policy and **RESOLVED that** the Financial Risk Management Policy (FRMP) with its current amendments be and is hereby approved. **2013/04/03**

10.1.5 Annual Review of the Terms of Reference of the Financial Risk Sub-Committee ("FRSC")

The Chairperson of the Audit Committee presented the amended terms of reference for the FRSC.

RESOLVED that: **2013/04/04**

The Board hereby approves the following amendments made to the FRSC terms of reference:

- Clarification of the membership of the FRSC;
- Clarification and rewording of the constitution of the quorum;
- An update on the section on Integration with the Enterprise Risk Management function.

10.1.6 Approval of Guarantees and Standby Letters of Credit

RESOLVED that: **2013/04/05**

The Board hereby adopts a resolution authorising the Chief Financial Officer to secure a new bank guarantee for the amount of AUD 9,933.00 (Nine thousand nine hundred and thirty three Australian Dollars) in terms of the lease rental agreement between SAA and Perth Airport (Pty) Ltd, ACN 077 153 130.

10.1.7 Annual Review of SAA Counterparty Limits

The Board noted the recommendation of the Audit Committee to approve the proposed **2013/04/06**

counterparty limits and **RESOLVED** to approve the counterparty limits as per Annexure A of the meeting submission.

Matters for Information

10.1.8 Cash and Liquidity Report

The Board noted the cash and liquidity report.

It was reported that SAA's actual cash and cash equivalent position for the financial year-end as at March 2013 amounted to –R1 101million.

10.1.9 Hedge Performance Report

The hedge performance report was noted by the Board.

10.1.10 Credit Risk Report

It was reported that total trade debtors amounted to R2,5 billion but 74% of those were current debtors, 10.4% over 30 days, 7.9% over 60 days, 1.6% over 90 days and 5.7% over 120 days.

The credit risk report was noted by the Board.

10.1.11 Interest Rate Report

The interest rate report was noted by the Board.

10.2 REMUNERATION AND HUMAN RESOURCES COMMITTEE REPORT

The Remuneration and Human Resources report was noted by the Board.

10.4 PROCUREMENT AND TENDER PROCESSES COMMITTEE REPORT

Recommendations of the Committee

10.4.2 Award of Maintenance Services for SAA's A319 and A320 V2500 Engines

The Board considered a recommendation by the Procurement and Tender Processes Committee (PTPC) to approve the award of maintenance services for SAA's seventy one (71) V2500 engines with International Aero Engines (IAE), the Original Equipment Manufacturer (OEM), for 5 years on the A319 engines, 6 years on the A320 BOC engines and 12 years for the A320 new fleet engines, to line up with the respective engine's lease periods.

The PTPC Chairperson reported that PTPC had awarded the maintenance services for a five (5) year period for the A319, the leased A320s and the new A320s. Subsequent to the award, Management had requested a review of the resolution because a 5 year contract term for the A320s would not be sufficient as the first scheduled maintenance event would only occur approximately 5.5 to 6 years from aircraft entering SAA operations. Therefore, by signing a 5 year contract SAA would be paying towards an engine event which would occur after the contract had expired.

The PTPC Chairperson reported that he had directed Management to co-sign the submission with the SAAT CEO to ensure that he was satisfied that the contract terms were not in contrast to SAAT's plans to build capability to undertake work arising from the SAA Power By Hour Agreement with IAE within three (3) to five (5) years.

A revised submission with PTPC conditions, which was signed by the SAAT CEO, was circulated in the meeting.

RESOLVED that: **2013/05/07**

The Board approves the award of maintenance services for SAA's seventy one (71) V2500 engines with International Aero Engines (IAE), the Original Equipment Manufacturer (OEM) to align with the respective engine's lease periods:

(a) for 5 years on the A319 engines;

(b) 6 years on the A320 BOC engines; and

(c) 12 years for the A320 new fleet engines,

on the following conditions:

- IAE assisting SAAT to rebuild their Jetshop capability and obtain the necessary certification as outlined in the Jetshop Revitalisation business case;
- IAE committing to route all the SAA FHA engines through SAAT shop once certified and defining the market related 'commercial terms' alternatively;
- IAE guaranteeing an equal number of shop visits through SAAT Jetshop as expected during the term of this agreement;
- The CFO should follow up on the USD 1.5 million saving which was to be attained had the maintenance agreement been concluded before 20 December 2012;
- The agreement to be signed with IAE should provide for the commitment by IAE to provide an investment of USD 3.75 million towards the development of SAAT's engine shop.

the CFO is hereby authorised to sign any contracts and documents necessary to give effect to this award.

14. CLOSURE

The CEO thanked the Board for the invitation to the Board meeting and to be afforded the opportunity to observe and note issues which required his attention.

It was decided that all other matters not considered be deferred to a future meeting of the Board.

The meeting was declared adjourned.

The next meeting will be held on 05 August 2013

CHAIRPERSON

Date: 07/08/2013

SECRETARY

Date:

COMMISSION OF INQUIRY INTO STATE CAPTURE

ANNEXURE "MB6"



SOUTH AFRICAN AIRWAYS

South African Airways
Office of the Chairperson
Suite 5, 6th Floor
Airways Park
Jones Road
Kempton Park

Private Bag X13
OR Tambo International Airport
Tel: 27 11 978-2520
Email: ruthkibuuka@flysaa.com

11 JULY 2013

Mr Malusi Gigaba, MP
Honourable Minister
Department of Public Enterprises
InfoTech Building
1090 Arcadia Street
Hatfield
0028

Email: vuyiswa.frans@dpe.gov.za

Honourable Minister,

SECTION 54 (2) OF THE PFMA: SAA NOVATION OF THE AIRBUS A320

SAA submitted an Application in terms of Section 54(2) of the Public Finance Management Act 1 of 1999, as amended, for consideration and approval by the Minister. For ease of reference, a copy of the Application dated 30 May 2013 is attached hereto and marked Annexure "A".

Subsequent to the submission of the Application, a letter dated 20 June 2013 was written to the Minister requesting that an approval for 2 (two) aircraft instead of 10 (ten) be granted by the Minister. The subsequent request has since been reconsidered and SAA has decided to revert to 10 (ten) aircraft as stated in its Application dated 30 May 2013 for the following reasons:

1. **Procurement process non-compliance**
   One of the critical criteria requirements of the tender was that bidders needed to bid for a minimum of ten aircraft. There were only three (3) bidders that met this requirement whom were subsequently shortlisted by SAA.

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), LG Nkosi-Thomas*, C Roskruge*

*Non-Executive Director

Company Secretary – Sandile Dlamini

South African Airways SOC Ltd Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER

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There were other bidders that tendered on less than ten aircraft who were not considered for further evaluation in the tender process. These bidders could be entitled to challenge the validity of the process should the number of aircraft be changed to less than ten aircraft.

2. **Risk of fruitless and wasteful expenditure**

The risks highlighted above with respect to the tender process could delay the concluding of the lease contracts. Any delay could have serious financial implications for SAA.

SAA is obliged to take delivery of the Aircraft in terms of section 9 of the Purchase Agreement. Section 9.2.3 thereof provides that should SAA fail to sign the Certificate of Acceptance or fail to pay the balance of the purchase price and provided Airbus has complied with all of its material obligations, SAA shall be deemed to have rejected delivery of the Aircraft. In addition to Airbus's right to charge default interest (Libor plus 3 percent), Airbus shall retain title to the Aircraft and SAA shall bear all risks of loss or damage to the Aircraft and shall indemnify Airbus for all costs reasonably and actually incurred (including without limitation, parking, storage, and insurance costs but excluding indirect or consequential damages suffered by Airbus).

The cost associated with any delay would be subject to audit and could be condemned as fruitless and wasteful expenditure in terms of the PFMA.

3. **Pricing risk on first two aircraft**

The pricing for the transaction has been calculated by Pembroke based on ten aircraft. It is possible that they would not accept the contract as currently negotiated based on only two aircraft. SAA and Pembroke would, necessarily, need to then renegotiate the financial terms offered by Pembroke and this could result in massive delays in the finalization of the transactional documents and risk the incurrence of penalties from Airbus on SAA's failure to timeously accept delivery of the aircraft.

4. **Maintenance reserves – cash flow and cost risk**

The anticipated value of maintenance reserve savings associated with this transaction is USD 113.6 million. SAA has negotiated with Pembroke that, for the ten aircraft, no maintenance reserves need to be paid to the lessor over the term of the lease. This has a significant positive impact on SAA's cash flow in terms of monthly maintenance reserve payments and interest impact thereon.

In addition, there is an element of the maintenance reserve payments made that, in practice, the airline would never be able to claim back, which is in the region of 20 percent which would represent a direct cost for SAA.

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It is with regret that the recommendation to consider a local currency based transaction has not been achieved on this first lot.

The Minister is accordingly requested to consider and approve the Application dated 30 May 2013.

Yours sincerely

Ms Dudu Myeni
SAA Chairperson

*PS. The Manager in the office of the Chairperson is now **Ruth Kibuuka**. May we request that all correspondence to the Chairperson be sent to ruthkibuuka@flysaa.co.com*
Her mobile is 0835316004.

COMMISSION OF INQUIRY INTO STATE CAPTURE

ANNEXURE "MB7"



SOUTH AFRICAN AIRWAYS

A STAR ALLIANCE MEMBER

Late submissions to the SAA Board

Review Report

COMMISSION OF INQUIRY INTO STATE CAPTURE

SOUTH AFRICAN AIRWAYS

INTERNAL AUDIT

July 2013

25 July 2013

The Chief Executive Officer (CEO)
South African Airways
Airways Park
Jones Road
Kempton Park

Review of the root causes that resulted in late submissions from SAA management to the Board

The SAA Chief Executive Officer received a request from the SAA Board to go back about 12 months to identify all the material submissions that the management team has submitted to the SAA Board in the "11th Hour" for approval. The main objective was to determine the root causes that resulted in the delays and to come up with a solution to address the root causes.

In compiling this report, we reviewed information provided to us by the officials that were interviewed. Our observations and conclusions are based on our review of these records and information. Some of the information and records are attached as annexures to this report.

We would be pleased to provide you with any further assistance and request that you do not hesitate to contact myself on +27 11 978 369.

Yours sincerely

Siyakhula Vilakazi
Chief Audit Executive
SAA Internal Audit Services

1. BACKGROUND

The SAA Chief Executive Officer received a request from the SAA Board Chairperson to go back about 12 months to identify all the material submissions that the management team had submitted to the SAA Board in the "11th Hour" for approval. This concern was also raised by the Audit Committee Chairperson and other Board members in general to the Board Chairperson. Given the significance of the concerns raised by various Board members, the Board Chairperson commissioned the review. The main objective was to determine the root causes that resulted in the delays and to come up with a solution to address the root causes. The following were material submissions that were identified for this purpose:

- Application for R5 billion guarantee
- Application for R1.5 billion guarantee that was going to be used for operational expenditure purposes
- A320 transaction
  - Approval request for A320 acquisition
  - Approval request for A320 funding
  - Approval request of Pembroke appointment to fund a portion A320 transaction
  - Section 54 application
- 2012/13 Going concern issues
- Engine Maintenance Contract
- 2012/13 financial Statements submitted to the Audit Committee before submission to AG.
- Delay in finalization of 2012/13 annual report resulting in postponements of 8 July 2013 audit committee meeting.

Internal audit department was requested to review the processes that were followed leading to the formulation and submission of each of the above submissions. The scope of the review covered the roles played by the management, Board and DPE officials in each of these submissions.

The specific questions that had to be answered by each official interviewed were as follows:

- Role played by a specific official in formulating the submissions.
- Role played by the Board regarding the submissions.
- Role played by the DPE regarding the submissions.
- The originally agreed upon submission date.
- The actual date the submission was done.
- If the actual submission date was after the originally agreed upon date, the official had to provide the reasons of the delay.

Furthermore, we were requested to conduct a high level review of the procurement process followed to appoint the financiers of the A320 transaction. The main objective was to assess compliance with the SAA SCM policy and to identify areas where there might have been delays.

2. SCOPE AND OBJECTIVES

We obtained and assessed information and records related to the specific submissions as outlined above. Some of the information obtained from SAA management is attached as annexures to this report. The objective was to obtain answers to the specific questions as outlined above.

Furthermore, we conducted a high level review of the procurement process followed to appoint the financiers of the A320 transaction. The main objective was to assess compliance with the SAA SCM policy and to identify areas where there might have been delays.

3. SCOPE EXCLUSIONS

Our procedures were not primarily designed to identify irregularities or illegal acts, including fraud or defalcations that may exist.

4. AUDIT TEAM

The audit team consisted of the following individual(s):

Name	Title
Siyakhula Vilakazi	Chief Audit Executive

5. RESULTS OF THE ASSESSMENT

5.1 A320 TRANSACTION

Annexure D to this report gives a synopsis of events leading to the approval by the Board of the Pembroke A320 transaction. Based on the synopsis, the process took very long. Internal audit identified the following critical points as an attempt to determine the root causes of the delays:

- On 11 April 2012, the Board approved the confinement of the procurement process to the three service providers. The Board resolution however did not list the three service providers. There is no evidence that the Fleet CFST and the Fleet Committee prepared the motivation to confine the procurement process to three service providers. Consequently, there is no evidence that the BAC approved the confinement.

  The Chief Financial Officer (CFO) stated that the there was no specific confinement. The Board was requested for a confinement, in principle, of three in view to save time. The reason being that GM: Legal (Sandra Coetzee) and the CFO had approached many lessors to gauge appetite for large aircraft acquisitions.

- Despite the confinement approved by the Board on 11 April 2012, the Fleet Committee took a decision to invite a high number of potential bidders more than just the three bidders. Therefore, the concern raised in the first bullet point above was addressed by the CFST by inviting 28 potential bidders. The list included not only the international financiers; it also included the local financiers.
- The CFST minutes and submission to the Fleet Committee dated 19 June 2013 indicated that the CFST took a decision to close the tender as none of the bidders met the NIPP requirement (Department of Trade and Industry requirement). The Fleet Committee overruled the CFST decision and took a view that the process needed to continue for the

sake of time and due to the financial constraints of SAA to fund the aircraft deliveries. The other reason that triggered the Fleet overruling CFST decision was that all bidders would have to liaise with Airbus to ascertain the extent of their own NIPP obligation. There is no evidence that the overruling of the CFST decision by the Fleet Committee was outside the scope of the Fleet Committee. The committees appointed by the CEO can overrule decisions of the lower committees at SAA if necessary.

- The Board approved the award to Bank of China (BOC) on 6 September 2012. This was before the 30 December 2102 deadline agreed with the DPE. This also signaled the end of a "formal procurement process which was in line with the SAA SCM policy".
- The new acting CEO/Board Chairperson (Mr. V. Kona) and certain members of the Board started engaging with certain local financiers to see whether SAA could get a better deal. These engagements started sometime in October 2102 just after the appointment of the new Board and acting CEO.
  - There is however no evidence that this engagement was in line with the SAA SCM policy.
  - These engagements were also a signal to the SAA management that the BOC award had to be put on hold. Unfortunately this was the beginning of the delays. As part of EXCO meetings, I do recall that the CEO requested the CFO many a times to put the BOC award on hold and there was a need to first engage with local financiers.
  - It is also my understanding that some of the meetings with local financiers were attended by some of the Board members. Therefore, the delay of the BOC award was well known by both the SAA executive management and the Board.
- During the period September 2012 to Nov/Dec 2012, there is clear evidence that Mr. Stuart Laird-Smith (Financial Controller: Commercial) was in constant contact with the DPE. During these engagements some of the issues deliberated on were PFMA section 54 requirements.
- During the period September 2012 to Nov/Dec 2012, there is no evidence that the HoD: GSM was involved in the engagements with the local financiers. There is therefore a question of whether these engagements were conducted in accordance with the SAA SCM policy. Furthermore, it can be argued that the formal procurement process was closed by virtue of the recommended or pending award to BoC; so the discussions with the local financiers were outside the formal procurement process.
- When the process of engaging the local financiers commenced, one might argue that the Board took a decision to stop or to put on hold the previous process that led to the

recommended award to BOC. There is however no evidence that the Board discussed this and took a decision on it. However, the fact that some Board members attended meetings with the local financiers confirms that the Board knew about these developments.

- It seems that there were no positive outcomes from the engagements with the local financiers. These engagements seem to have taken place until December 2012. At this point, the 6 September Board decision was still not yet communicated to BOC. This contributed to further delays, but maybe for good reasons. There is however still no evidence that the delay was unnecessary and can be attributed to the CFO. As soon as there were indications that there was no success with the local financiers, the CFO discussed the risk in a memo to the then Acting CEO that SAA was facing significant risks by not having an approved funder six months before the first A320 delivery. With the blessing of the Board Chairperson, the CFO re-initiated the discussions with the three financiers that were shortlisted from the previous process followed prior 6 September 2012. Unfortunately the award process (not the entire procurement process) had to be started from the beginning as BOC at that point were changing their offer, i.e. they were no longer willing to take 20 aircrafts but were then offering to take only 10 aircrafts. The process took from February 2013 to beginning of June 2013 to get to a final Board decision to appoint Pembroke. During this period and process there is no evidence of delays that can be attributed to anyone. Under normal circumstances at SAA the time it took for this second round process was reasonable. The delay can only be attributed to the discussions that were taking place between SAA and local financiers from September 2102 to January 2013.
- When the second round formal procurement process was taking place, it seems there were still discussions taking place with the local funders parallel to the other formal procurement process. These other discussions were outside the normal SAA procurement process. Furthermore, these discussions seem to have slowed down the formal procurement process as there were different interventions from some Board members.
- The CFO was communicating directly with bidders. This was against the Request for Proposal (RFP) document which stated that the bidders could only communicate with the HOD: GSM regarding the tender. Furthermore, the CFO visited and had meetings with the bidders by himself, i.e. with no one accompanying him. The proceedings of those meetings were not minuted.

The response of the CFO regarding this matter was as follows:

"For clarity, I only communicated with BOC after the award was made and to try and convince them to stick to their original offer. With regard to Pembroke, I facilitated an engagement with the Head of Fleet Management, to clarify technical issues in their Letter Of Intent (LOI). The HoD: GSM was copied in on all correspondence that had resulted from these discussions."

- In February, the CFO asked the DPE whether there were PFMA requirements regarding the transaction. The DPE at the time confirmed that there was none. Subsequently they informed the CFO that a Section 54 application was required. At the end of March 2013, the CFO and CPO sent DPE a notification of the Section 54 application with the request that the application will suffice. DPE confirmed that the application was in order.

  CFO's comment: Until such time that SAA had a firm offer on the table, nothing could be taken to the board for approval. The LOI signed by the CFO was not a legal and binding offer. Pembroke was doing their own due diligence, as would be the case with any other lessor prior to making a final offer. SAA only received their final Pembroke board approved offer at the end of April 2013. Only when SAA had the final offer in hand, could we commence with the SAA approval process.
  CFO's comment: At the beginning of May 2013 the CFO sent a request to the Company Secretary for a Special Board meeting to deal with the approval of the transaction. It was not granted. It then had to go to the Audit Committee meeting that was scheduled for 10 May, but postponed to 20 May 2013, when it was approved and recommended to the Board for final approval. The Section 54 application was also approved by the Board on 27 May 2103.
- The section 54 application was sent to DPE only a week after the Board had approved the transaction. There is no evidence from the DPE giving feedback on the section 54 application. So there is still no evidence of the delays from the CFOs side.
- On 8 May 2013, the CFO sent a section 54 application covering letter to the office of the SAA Board Chairperson. This was a month before the first aircraft delivery.
- There is a section 54 application letter dated 23 June 2103 sent to the DPE by the office of the Chairperson. This was more than a month after the CFO letter of 8 May 2013 and three weeks after the Board resolution of 27 May 2013.

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- Sometime in June 2013, the DPE urgently requested the documents regarding the procurement process. These documents were available as early as April/May 2013. There is no evidence that the DPE requested these documents earlier.
- While in the process of finalising the "formal" procurement process, it seems that there were other engagements with the local financiers that were continuing on the side. There is no evidence regarding the authorisation of the discussions with the local financiers. It is therefore possible that there might have been other factors that might have delayed the formal procurement process including Pembroke. Similar engagements did delay the process in September 2012 to December 2012. There is no evidence that these other engagements were initiated by the CFO; therefore there is no evidence that the CFO delayed the process as there is evidence that the CFO was more focused on the formal procurement process that was including the three financiers.
- On 27 May 2013, the Board approved the Pembroke offer of taking up 10 aircrafts. However, as per section 54 letter dated 23 June 2013, the Board changed its decision of accepting the 10 aircraft offer from Pembroke and decided to allow Pembroke to take up only two aircrafts. The 23 June 2013 letter raises the following challenges:
  - The process of section 54 application approval by DPE was further delayed due to confusion caused between the DPE and SAA officials.
  - The letter was not supported by a formal Board resolution changing the decision.
  - There was no evidence of communication from the Board to the SAA management regarding the changed decision.
  - There was no evidence that factors like pricing, delays as a result of a possible need to request revised bids, possible penalties from Pembroke/Airbus, impact on Airline operations due to non delivery of aircraft, etc were considered with the change from 10 to 2 aircrafts.
  - Due to lack of evidence, there are significant governance and integrity issues regarding the section 54 application letter dated 23 June 2013 and the entire procurement process that was likely to unfold if the Pembroke award was amended or declined.
  - Even if the letter dated 23 June 2013 was subsequently set aside and the 27 May 2013 Board resolution "re-instated", there are significant governance and integrity issues that need to be investigated and addressed at Board level.
- Based on the interviews with different SAA officials, I was informed that there was a round robin request to Board members, excluding the executive Board members, sent on 6 July

2013 to try and change the resolution of ten aircraft to two. The CFO specifically confirmed that he did not receive the round robin request. The exclusion of the executive Board members might also raise governance questions regarding transparency.

- SAA management commenced the negotiation process with Pembroke immediately after the audit committee approval. There were therefore no delays regarding the negotiation process; it however did start late due to lots of other reasons related to processes that preceded the negotiation process.

Internal Audit Conclusion on A320 transaction

First; based on the critical points outlined above and synopsis of events as outlined in Annexure D to this report, the delays related to the entire A320 transaction are attributable to the then Acting CEO who seemingly was leading the discussions with local financiers and the Board that was part of the discussions with the local financiers. There is no evidence that the SAA executive management caused any delays.

Second; there is a concern that the Fleet Committee allowed the CFO to communicate directly with the bidders in contrast to the RFP that stated that the bidders could only communicate with the HOD: GSM. Such direct communications with the CFO might create perceptions that certain bidders might have been given access to information that put them at a better bidding position compared to other bidders. Furthermore, the CFO visited and had meetings with the bidders by himself, i.e. with no one accompanying him. The proceedings of those meetings were not minuted. Due to the lack of evidence regarding the discussions or proceedings at these meetings, only the CFO can confirm whether the procurement process transparency, fairness and equitability was not compromised at these meetings. One could argue that the CFO was supposed to have been accompanied by the at least the HOD: GSM and Group Treasurer. **The response of the CFO regarding this matter was;** *"For clarity, I only communicated with BOC after the award was made and to try and convince them to stick to their original offer. With regard to Pembroke, I facilitated an engagement with the Head of Fleet Management, to clarify technical issues in their LOI. The CPO was copied in on all correspondence that had resulted from these discussions."*

Third; the engagement with the local financiers was outside the formal SAA procurement process. This is a serious contravention of SAA SCM policy and any resulting transactions with these financiers might be classified as irregular. Of more concern are the wrong perceptions that are likely to surface regarding the procurement process that will be followed to source a financier for the next 10 aircrafts. There might be allegations that SAA started engaging the local financiers long before the formal procurement process started.

Fourth; the section 54 application letter dated 23 June 2013 raised significant governance, integrity and process issues that need to be discussed and addressed at Board level. It is recommended that the Board should take a resolution on this matter. Such resolution should be communicated to the DPE if necessary. Furthermore, the exclusion of the executive Board member (CFO) from the 6 July 2013 round robin to board members might raise governance concerns.

Overall audit recommendation on A320 transaction

- The Board to reflect on the entire process that was followed in engaging the local financiers and to come up with a plan to ensure that such engagements do not result in delays in future.
- The HoD: GSM must provide to the Board the confirmation that Pembroke subsequently complied with the NIPP requirement as required by RFP.
- The Board to reflect on the fact that the CFO was communicating directly with the bidders in contracts to the RFP that stated that the bidders could only communicate with SAA via the HoD: GSM, and attending meetings with the bidders with no one accompanying him. It must however be noted that the Fleet Committee approved and authorised such direct communications. The Board should then take a decision on whether or not there is a need of a specific forensic investigation into this specific matter to determine whether or not the procurement process was compromised.
- The process of engaging local financiers was outside the formal SAA procurement process and was consequently in contravention of SAA SCM policy. The Board must reflect on this and decide whether or not action needs to be taken against the transgressors.
- There were significant governance and integrity concerns relating to the section 54 application letter dated 23 June 2103 and the subsequent round robin request to the Board. The Board members must reflect on this and decide on the appropriate action.

- It is apparent that there is a number of parties who possibly transgressed parts of the A320 financing procurement process. The Board should therefore be very consistent in applying its mind if action is to be taken against any of the transgressors. In upholding the "consistency" principle, the Board should also consider the Board and management previous actions against the officials who transgressed SAA policies.
- To clear or to confirm the allegations that the CFO might have compromised the procurement process leading to the appointment of Pembroke and fraudulently benefited on a personal basis from the transaction, the Board must consider appointing forensic audit experts to investigate the matter. This will either help clear the name of the CFO who should NOT be presumed to have personally benefited from the transaction until proven otherwise or confirm the allegations. It should however be noted that this will not be an easy exercise unless the investigators talk directly to the three bidders or gain authorised access to the financial records of the people being investigated.
- Depending on the significance put by the Board on the concerns raised above, the Board should consider advising SAA to use an external independent party to run the procurement process of sourcing the financiers for next ten A320 aircrafts.

5.2 APPLICATION FOR R1.5 BILLION GUARANTEE

Annexure A to this report gives a synopsis of events leading to the funding of the R1,5 billion working capital requirements.

Internal Audit opinion

Under normal circumstances this process could take a shorter time. The following points were noted:

- It seems there was a delay between 12 and 26 November 2013. Both SAA and DPE are blaming each other for the delay. SAA management has however has provided adequate evidence that the delay was not on SAA side. For example, the DPE had to finalise the Guarantee framework before SAA could start engaging the banks; the Guarantee Framework was critical for SAA Group Treasurer to start engaging the banks for short term funding. The SAA Group Treasurer stated that the DPE took too long to finalise the Guarantee Framework. The DPE stated that the submission from SAA was inadequate and a significantly long time had to be spent seeking clarification from SAA before they could finalise the Guarantee Framework. Based on the evidence provided to us, I conclude

that the delay in finalising the Guarantee framework was the major root cause of the delay to start engaging the banks on short term finding under the R1.5bn guarantee.

- From 4 December 2012, when the CFO received the funding proposal from the Group Treasurer, to 18 December 2012, it took too long for the CFO to present to the Banks to participate in the bridge funding requirements.

CFO's comment on two bullet points above; "This is not true. There is history to this. The previous Acting CEO had direct engagements with all the Banks with the general message that SAA's financial position is "dire and that the place is burning". He pleaded with banks for moratoriums on loan repayments and for lower interest rates. These meetings were mostly without the involvement of the CFO and the Treasurer. Therefore, when we approached the banks in December for bridging facilities to secure SAA's cash flow position over the festive season, no bank wanted to entertain such a proposal. As an emergency measure, the CFO called all the banks to SAA's auditorium in an effort to restore their confidence in SAA after the damage caused to SAA's reputation by the previous Acting CEO. Subsequent to this session, Nedbank was prepared to assist SAA with the bridging required. The subsequent approval process was then driven by Nedbank's requirements. DPE gave their full co-operation in this process; The CFO had to interrupt his leave after Christmas to secure timeous approvals".

- From 4 December 2012, when the CFO received the funding proposal from the Group Treasurer for Board approval, to 19 December 2012, **it took too long,** for the Board to approve. It is alleged that the CFO did not submit the funding proposal timely to the Board.

CFO's comment; "The approval process was driven by additional guarantee requirements from Nedbank and a round robin was requested".

Internal Audit Opinion: SAA could have handled this matter better by discussing the liquidity issues with the board earlier and submitting the necessary documents for Board approval earlier. If it was known that December and January are usually difficult months for the organisation, this matter could have been discussed with the Board and the DPE much earlier, before the finalisation of the Guarantee framework. I did not obtain evidence that this was done.

CFO's comment on Internal Audit Opinion above: Treasury was aware of the seasonal cash flow requirements, the same every year. However, this time the banks did not want to respond. That is why the auditorium session was called and subsequent additional guarantee requirements which were not usually required for bridging finance.

- National Treasury took two months to approve the additional R400 million loan with ABSA and Investec. The two facilities from both these banks expired before National Treasury approval.
- During March several emails and telephone calls were made to request the process and finalisation of the Guarantee (GA) and Guarantee framework (GFA) and no feedback or feed-forward was received by SAA from DPE. This delayed the process considerably.
- Seeing that The DPE and NT were not finalising the guarantee in time, SAA Treasury team started the process to extend the Nedbank and Citibank facilities acknowledgement letters.
- On 27 March 2013 the Board approved the extension of Nedbank and Citibank, and the same was sent to DPE.

The delay here was around the finalisation of the guarantee. The DPE stated that the SAA submission was inadequate hence they had to spend a long time seeking clarity.
Both parties can be blamed for the delay in this instance.

- After a number of engagements, the DPE advised SAA to abandon the CP process and rather seek a normal loan from the banks. This further delayed the funding of the working capital requirements and the finalisation of the guarantee.

It took too long for the DPE to come with this advice. The DPE can be blamed in this instance.

Internal Audit Conclusion on R1.5 billion guarantee

Root causes for the delays can be summarised as follows:

- The CFO took too long to alert the Board about the liquidity challenges that were likely to be faced by SAA during December and January period.
  As stated by the CFO, "this was a sensitive matter, as it was the Acting CEO that alienated the banks which led to the delays in funding". The Board was alerted at the end

of December 2012; this could have been done earlier. There is no evidence that the CFO saw the urgency of submitting the funding proposal to the Board for approval. The approval obtained was on 19 December 2012 very close to month end when a number of payments to our creditors were due.

- The DPE spent too long a time seeking clarification from SAA regarding the CP process. Due to this delay, SAA could not secure funds to repay the commitments that were due at the end of March 2013. After all engagements, the DPE advised SAA to stop the CP process and to pursue normal loans with the banks.

The delay in finalising the guarantee and the changes from Commercial paper to bank loan on the part of DPE was an issue in raising funding at the appropriate time. The delays with the guarantee approval had an impact in repaying Nedbank and Citibank, and in most cases then required the board and Ministers to approve the extension of the acknowledgement letters at most, at inconvenient times.

The DPE states that the delays were due to time spent seeking clarification on SAA submissions; the submissions were allegedly inadequate. The evidence provided by SAA however proves the otherwise; there is no evidence that SAA caused any delays.

5.3 APPLICATION FOR R5 BILLION GUARANTEE

This process was handled by Mr. Stuart Laird Smith. Unfortunately, Stuart resigned early in 2013. None of the remaining staff members could give details of the process followed and what caused the delays.

CFO's comment: The delays were primarily between DPE and NT. SAA's going concerns and board approvals were all on time. That can be confirmed by the external auditors, as they were also involved.

5.4 2012/13 GOING CONCERN SUBMISSION TO BOARD AND DPE

Annexure B to this report gives a synopsis of events leading to the financial injection request.

Internal Audit opinion and conclusion

COMMISSION OF INQUIRY INTO STATE CAPTURE

Based on the synopsis as per Annexure B, it seems there was no timely communication between SAA, the DPE and National Treasury regarding this matter. Due to inadequate communication, incorrect assumptions were made by SAA. There is no evidence that this assumption was based on consultations with National Treasury and the DPE. Had consultation been done earlier, this assumption would not have been made. The application for financial injection could have therefore been done by SAA in time.

CFO's comment; I respectfully disagree and Phetolo will confirm this. At a meeting at DPE in the presence of National Treasury, National Treasury alluded to the fact that they had communicated the deadline submission date for the FLC to DPE, which was not communicated to us. That was confirmed in the meeting. There was no way that SAA could be aware of the deadline submission date of the FLC.

Recommendation

At all audit future audit committee meetings, the CFO must give confirmation that the going concern issues are regularly discussed with DPE and all necessary submissions to DPE regarding the matter have been made or will be made timely as agreed with the National Treasury and the DPE.

5.5 ENGINE MAINTENANCE

Annexure C to this report gives a synopsis of events leading to the approval of the award for maintenance services for the SAA's A319 and A320 V2500 engines to the original equipment manufacturer International Aero Engines. Based on the synopsis, the process took very long. Even though it took long, this did not negatively affect the operations.

It is clear from the flow of events that this submission was delayed for the following reasons:

- SAA Board meetings did not discuss all items during the Board meetings, and did not defer the matter (automatically) to the next Special or normal Board meeting. Notification was not given to Business that the submission was not discussed and only upon request from Business, was the matter again raised at the next Board meeting.
- The change of Acting CEOs resulted in all submissions' signature page to be redone, only to get the next Acting CEO's signature. This was one of the main reasons why submissions had to be resubmitted before each Board meeting.

- The notification of PTPC meetings were not shared with Business, only when business request special PTPC meetings was business advised of a scheduled or special meeting and this resulted in urgent submissions to the PTPC meeting. The PTPC meeting's frequency was not enough, as well as it was not clear which items must go to a PTPC meeting.
- The SAAT Board requested SAAT management to investigate the possibility of performing engine maintenance, at the November 2012 Board meeting. This request resulted in all engine submissions being delayed accordingly. (Even though all submission was supported by the SAAT CEO reflected in his signature on each submission). Also Business provided with each submission, a commitment letter from IAE that they will assist SAAT in getting the capability to perform these engines as well as provided a commitment that they will be allowed to perform these engine maintenance events though the FHA agreement.
- The commitment of IAE and the approval from the SAAT CEO as part of each submission was clearly not considered by the SAA Board members when reviewing the submission (this is reflected in the reasons provided as to why the Board deferred the matter on each occasion).
- It can also be argued that the SAA Board members do not yet have a full understanding of engine maintenance, an FHA (although explained in detail in each submission) and did not yet have a full understanding of the high capital investment required in performing engine maintenance, and the small profit margin such services render. The FHA provides a savings of between 16-20%, compared to Time and Material rates, which is the rates SAAT will be expected to achieve.
- This submission was delayed by 6 months unnecessarily, which resulted in SAA loosing approximately R13m rand, and this harmed our reputation with the vendor. It made negotiating the additional conditions (specified by the Board on the 2nd of June 2013 – after the submission was already approved on the 27th of May 2013) substantially more difficult to achieve.
- The delay and indecisiveness of the SAA Board could have resulted in PFMA declarations, and if business did not push every time back to ensure that the correct decision was made, this could have resulted in significant additional cost to SAA in the long-term.

Internal Audit opinion

COMMISSION OF INQUIRY INTO STATE CAPTURE

Under normal circumstances this process could take a shorter time. Based on the synopsis on Annexure C, it seems the major portion of the blame can be attributed to the then Acting CEO, the company secretary's office and the SAA Board. It is clear that these parties could have done things differently in this case.

Recommendation

To avoid further delays it is management's recommendation, and supported by Internal Audit, that the following is done to prevent similar situations in the future:

- Company Secretariat Office to clearly communicate submission deadlines to the whole organisation and not only to EXCO members,
- Submissions not discussed at Board meetings, must be automatically included at the next Special meeting or dealt with as a "Round Robin".
- PTPC meeting schedule must be communicated to the whole organization and must be more flexible to address big contracts that require more complex and lengthy negotiations.
- SAA Board members to be given a short introduction to Aviation, Maintenance and Airline costing.

5.6 LATE SUBMISSION OF THE 2012/13 FINANCIAL STATEMENTS TO THE AUDIT COMMITTEE

Management comment

In terms s 55(1)(c)(ii) of the PMFA, the draft of the annual financial statements (AFS) of a section 2 company has to be submitted to the auditors for auditing and lodged with the relevant treasury within two months of the financial year end (31 May). SAA normally submits these AFS to National Treasury, the AG and DPE on this date.

Historically SAA complied with this requirement without the prior approval thereof of the Audit Committee (AC) or Board. Normal due process was always that the AC only viewed and approved the AFS in the July meeting as they were still subject to the audit process and a number of amendments and adjustments could still, in theory, be required. The submission to

National Treasury, the AG and DPE at this point in time does not mean that it is a final set of AFS.

For the AC dated 20 May 2013, the item "2012/13 Draft Annual Financial Statements" for approval appeared on the agenda. Due to the impracticality of having it on the agenda and sending it to the AC with sufficient time for the AC to study it without having finalised the AFS, I raised it with the Company Secretary. He reverted back that the Audit Chair insisted that it remains on the agenda. In the absence of having a draft set of AFS ready by 20 May 2013, I did a presentation of the results to the Audit Committee. It was decided that a Special Audit Committee would be held on Monday, 27 May 2013, before the Board meeting, to deliberate on the AFS. The Finance team, working very hard and long hours, managed to provide a set of AFS on Friday 24 May 2013, well before the deadline date to the AG of 31 May. This set of AFS was distributed to the AC and Board by the Company Secretary's office on 24 May 2013.

Although the AC has the prerogative to request and review the AFS well in advance of the July meeting, caution should be had that the date should be realistic in terms of providing management and external audit with sufficient time to prepare and review the AFS. The accusation that the submission was very late is probably true, but certainly justifiable.

Internal Audit Comment

It is normal practice that the auditees should formally submit the financial statements to the Auditor General on or before 31 May. All audit committees I have worked with always reviewed the financial statements and approved them for submission to the Auditor General on or before 31 May 2013. Consequently, it is normal practice that the audit committee should review the financial statements before 31 May.

I am therefore of the opinion that the CFO should have known about this practice and submitted financial statements to the audit committee timely.

The current audit committee is made up of mostly new members and we could not simply assume that they were going to do things like the previous members.

CFO's comment on Internal Audit Comment: Your comment will be disputed – this is my third year being involved in this process at SAA, apart from similar previous experience. Previous years the submission was not requested. Even when I was at the Land Bank, it was also the case. The reason being the already tight deadline to produce the set of AFS by 31 March. You can therefore not make assumptions that I should have known.

There were no assumptions from our side, but a specific request due to the knowledge of the difficulty to have the AFS ready so early! Anybody really familiar with the tight year-end process should be able to understand it. SAA Finance work long and hard to produce the numbers in time for the 31 May deadline.

Recommendation

The audit committee must take a resolution that the CFO needs to submit financial statements to the audit committee meeting to be held on or before 31 May of each year. This is starting from the financial year 2013/14.

5.7 POSTPONEMENT OF AUDIT COMMITTEE MEETIGNS THAT WERE SUPPOSED TO BE HELD ON 8 JULY 2013 AND 22 JULY 2013.

The audit committee meeting that was supposed to have been held on 8 July 2013 was postponed to 22 July 2013 and then again to 5 August 2013. The reason for postponing was due to lack of non-financial information for the annual report that needed to be reviewed and approved by the audit committee. The Group Corporate Affairs division is responsible for collating the non-financial information from different parts of the organisation. There is no evidence that the organisation delayed Group Corporate Affairs. Group Corporate Affairs can therefore be held accountable for the delays as they take the ultimate responsibility and accountability of obtaining the necessary all the necessary information and integrating it. The first draft of this non-financial information was submitted to the relevant people (e.g. Company Secretary, CFO, etc) within SAA on 22 July 2013. This information still needed to be reviewed and approved by EXCO on 25 July 2013.

It is important to note that the financial statements, as prepared by the CFO, were ready submitted to the Company Secretary on 26 June 2013. The delay of the annual report therefore had nothing to do with the readiness of the annual financial statements.

Management comment on 24 July 2013

The Annual Report has been sent to Executive Committee for their approval and the Audit Committee will receive their copy on 25 July 2013. It is critical that the Report is 95% complete by the time it is submitted to the Audit Committee and it will be.

It is Corporate Affairs' responsibility to collate information from the Group and this has once again proved to be a challenge. The call for information was intercepted by a set of Integrated Reporting guidelines received from the Shareholder through the Company Secretary's office which caused a delay in the receipt of information from various departments as the interpretation thereof was not clearly understood by the units submitting info. Further, cosmetic and content changes, including areas such as the Legal Risk and Compliance Report as well as the Director's Report were required before circulation.

Based on this years' learnings we will begin the process well in advance and are willing to be guided by the Company Secretary's office as well as Finance Department on how to further improve agility on the production of the publication.

Recommendation

The CEO must discuss the matter with the Executive: Group Corporate Affairs and take the necessary action depending on the answers provided.
I recommend that there must be a groupwide agreed-upon process to be followed in collating the information to be included in the annual report. Group Corporate Affairs depends entirely on the co-operation of a number of people across the whole group. Without a clear agreed-upon process and timelines, SAA will always face this challenge of not finalising the report timely.

ANNEXURE "MB8"



SOUTH AFRICAN AIRWAYS
A STAR ALLIANCE MEMBER

CONFIDENTIAL

MINUTES OF THE SPECIAL MEETING OF THE BOARD OF DIRECTORS (2014/01) OF SOUTH AFRICAN AIRWAYS SOC LTD HELD ON WEDNESDAY, 22 JANUARY 2014 AT AIRWAYS PARK, 6TH FLOOR BOARDROOM, KEMPTON PARK AT 17H00

Resolution No / For Attention

Present

Ms Y Kwinana	Non Executive Director
Ms R Lepule	Non Executive Director
Ms N Kubeka	Non Executive Director
Mr B Mpondo	Non Executive Director
Adv LG Nkosi-Thomas	Non Executive Director
Ms C Roskruge	Non Executive Director
Mr A Khumalo	Non Executive Director
Mr A Mabizela	Non Executive Director
Dr R Naithani	Non Executive Director
Mr M Kalawe	Chief Executive Officer
Mr W Meyer	Chief Financial Officer

Apologies

Ms Myeni	Chairperson of the Board

In attendance

Mr S Dlamini	Company Secretary
Mr M Nyoni	Deputy Company Secretary

1. OPENING, WELCOME, EVACUATION PROCEDURE, CONSTITUTION OF THE MEETING AND SIGNING OF ATTENDANCE REGISTER

In the absence of the Chairperson of the Board who was not able to attend the meeting due to an operation which she had to undergo on the day of the meeting, the CEO opened the meeting. He requested the Board members to elect a Chairperson for the meeting. The Board elected Mr B Mpondo as the Chairperson for the meeting.

Mr Mpondo welcomed everybody present.

The attendance register was circulated and signed. The Board noted that Ms Ruth Kibuuka was in attendance and enquired about her role in the meeting. Ms Kibuuka advised that she had been requested by the Chairperson of the Board to attend and take notes.

The Board asked for guidance from the Company Secretary who advised that Board meetings were confidential and people (including employees) who were not members of the Board attended on invitation by the Board.

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The Board decided that as the meeting was being recorded by the Company Secretary who would produce minutes, there was no need for Ms Kibuuka to be in attendance for the purpose of taking notes for the Chairperson. She was excused from the meeting.

2. APOLOGIES

An apology from Ms D Myeni was noted.

3. ADOPTION OF AGENDA

The Agenda was adopted with the addition of the following matters:

- Feedback from a meeting with DPE
- Method of Disposal of SATC.
- General.

4. DECLARATION OF INTERESTS

The directors declared that they had no personal interests in the matters on the agenda.

5. FEEDBACK ON MEETING WITH THE MINISTER

The Company Secretary gave feedback on the meeting between DPE and SAA which was held just before the Board meeting. He touched on comments by DPE on the presentations that were done by the CEO and CFO.

The Board members commented on the feedback and touched on the following matters.

5.1 Conditions of the guarantee – Announcements of the Results

Management was advised to ensure that there was alignment between DPE Communications and SAA Communications on the announcement of the results. It was suggested that the Ministry be requested to take a lead on matters relating to the guarantees.

A question was raised regarding the level of compliance with the conditions. The CFO replied that SAA was complying with the old conditions of the guarantee in terms whereof SAA was required to develop the Long Term Turnaround Strategy (LTTS), and to secure approval of the Ministers of Finance and Public Enterprises to borrow on the back of the going concern guarantee.

The Board enquired whether or not SAA was complying with the Guarantee Framework Agreement, particularly the conditions set out therein. The CFO promised to revert to the Board on this.

The CEO indicated that a report on this matter would be finalised by Saturday, 25 January 2014 and circulated to the Board. **CFO**

The Board proceeded to deal with correspondence from the Minister and pointed out that it was concerned that it could miss critical matters from the Shareholder. **CO SEC**

The Board agreed that it was the responsibility of the Company Secretary to ensure that the Board was aware of all the letters from the Minister and requested him to develop a repository of all correspondence from the Minister with responses thereto.

The Board further **RESOLVED** that the Company Secretary must make sure that he had access to all letters and correspondence from the Minister. **CO SEC 2014/01/01**

Leakage of Information

The Board enquired about the outcome of the investigation that was done into leakage of information.

The CEO advised that the investigation uncovered that employees leaked information using their private emails. As a result, access to private emails had been completely blocked by the Information Technology (IT) Department.

Long Term Turnaround Strategy

The Board expressed concern that SAA was apparently not keeping DPE informed of the implementation of the LTTS. Management was advised to take more time to update the Minister and DPE on the implementation of the LTTS. **CEO**

The Board was in agreement that the implementation of the LTTS was one of the crucial tasks of the Board. A decision was taken that all Board members be invited to the LTTS Committee meetings. **CO SEC**

5.2 **Annual General Meeting (AGM) Pack**

The Company Secretary took the Board through the AGM Pack and particularly touched on the following matters:

Waiver of Notice

The Company Secretary pointed out that DPE was upset that the pack was not delivered to them on time. He indicated that he was certain that this matter would be raised by the Minister at the AGM.

In response to one of the Board members, the Company Secretary denied that his Unit was to blame for the delay and gave a full account of what happened. It was confirmed that the pack was delivered to the Chairperson on 07 January 2014 and that it was collected from the Chairperson on the date of this meeting (22 January 2014).

The Board pointed out that it could not apportion any blame on this matter without the version of the Chairperson. The Company Secretary referred to an email from the Chairperson to give the Board a glimpse of the concerns raised by the Chairperson. He read out the concerns raised by the Chairperson and his response thereto.

After deliberations, the Board decided that it would have to apologise to the Minister for the delay.

The Company Secretary further mentioned that the Chairperson had informed him that she had written to the Minister asking for the Waiver of Notice. The Board requested for a copy of the letter written to the Minister in this regard. **CO SEC**

Annual Financial Statements

The Board made the following comments:

Page 58, Going Concern – 2nd paragraph - 'substitute the word 'predetermined' for 'defined' in line 4.

Page 58, 3rd paragraph, line 5 – Delete the word 'both' and the phrase "and the Minister of Finance".

Profile of the Directors – The directors should double check their profiles for correctness.

Appointment of Directors - The meeting deliberated on this matter at length. After deliberations, the Board resolved that the submission be removed from the pack as this matter was a preserve of the Shareholder.

Page 133 – Management should make sure that the word "Act" is defined in the SEGNCO Report.

Directors' Fees – The Board enquired as to why Mango's director's fees were not included in the report.

The Company Secretary undertook to investigate this matter and report back. **CO SEC**

Shareholder Compact 2013/14

The points of divergence included:

- Financial measures – SAA wanted to use the revised financial assumptions
- Recommendation by SAA to push the finalisation of the tender for the wide body aircraft to a later date;
- SAA wanted the Environmental, Economic an d Social Dividend Plan to be moved to the next financial year (2014/15)

The CFO explained the reasons for DPE and SAA not reaching an agreement on some of the KPI's.

The Chairperson then invited comments on the draft Shareholder Compact. The Board commented as follows:

Page 248, Clause 5.3 - Add the phrase 'with Primary focus on Africa' after the Vision.

Page 250, Clause 250 - Change the word 'nimble' to 'agile'.

Page 251 Clause 6.4.3 - Management should make sure that DPE fulfilled or met its undertakings.

Page 253 Clause 8.3 – Delete the phrase "parties acknowledge that".

Page 254 – Clause 9.5 – 7.8 the numbering was incorrect and should be corrected

Page 253 Cause 12.2
The word "to" should be inserted between "mandated" and "manage".

5.3 Round Robin A320

The CEO reported to the Board that management had established a Committee that would drive the acquisition of the A320s which was chaired by the General Manager: Legal, Risk and Compliance. The CEO requested the GM: LRC to take the Board through the submission.

The GM: LRC pointed out that the Board was being requested to approve:

- that aircraft 3 be acquired on a sale-and-leaseback basis because of the delay in finalising the novation negotiations.
- that delivery of aircraft 3 be delayed to coincide with delivery of aircraft 4 in March 2014.
- the interchangeability of the sale-and-leaseback structure and novation as and when necessary.

The Board raised a number of questions to which the GM: LRC responded as follows:

- **Section 54 Application**

A letter of notification would be sent to the Minister highlighting the changes. There was no need for an application in terms of Section 54 of the Public Finance Management Act. The reason being that the difference in impact between novation and sale-and-leaseback was not significant.

- **Delays in Novation**

The delays in novation were partly caused by the fact that nobody on the side of Pembroke and Airbus was actively taking a lead in the discussions and there was a risk that Airbus would drag the discussions so that the A320 transaction could coincide with the wide body acquisition.

- **Impact of the delay**

The financial impact of delaying the delivery of aircraft 3 would, *inter alia*, take the form of storage fees which would be payable by SAA. She further explained that such payment could be classified as fruitless and wasteful expenditure. The GM: LRC indicated that the expenditure could be in the region of R2million per month.

She further submitted that management could not be blamed for the delays because when it was realised that the novation would not be concluded, management changed to sale-and-leaseback, and started discussions with DPE in November 2013. A submission for approval by the Board was circulated on 19 December 2013.

One of the Board members argued that the Board contributed to the delay. He argued that the Board had not displayed diligence in dealing with this acquisition and cited as examples the decision taken in Cape Town on 02 June 2013 and a letter to the Minister dated 20 June 2013 which reflected a different decision, a Round Robin which was sent out on 19 December 2013, follow ups from Management, and his appeal to the Chairperson for a meeting to dispose of this matter which did not elicit any positive response. He contended that in the light of the above, the Board could not deny that it was to blame.

After deliberations, the Board **RESOLVED** that:

1. aircraft 3 and 4 be procured on a sale and leaseback basis.
2. management prevail upon Airbus (through negotiations) to waive storage costs.
3. interchangeability of sale & leaseback and novation structures be declined.
4. aircraft 5 to 10 be procured on a novation structure.

GM: LRC 2014/01/02

5.4 Method of Disposal of South African Travel Centre (SATC).

A submission on the above was circulated at the meeting.

The GM: LRC submitted that the purpose of the submission was to request the Board to approve the disposal of SATC through a sale of shares.

The Chairperson of the LTTS Committee confirmed that advice had been taken from the Corporate Advisors on the method to be used to dispose of SATC.

The Chairperson of SATC also reported that the Board of SATC had met before the SAA Board meeting to consider this matter. In its meeting, the Board of SATC recommended that:

- the shares in SATC be sold whilst retaining the current branding and that a mechanism for participation by SATC's franchisees be offered.
- the buyer be an established entity that would ensure stability of SATC business.
- the employees of SATC be offered job security.

The GM: LRC further took the Board through various methods which could be used to dispose of SATC, including

- Management buy-out;
- Sale of business; and
- Sale of shares

She explained the reasons for not recommending the first two methods.

The Board pointed out that although it was amenable to accepting the recommendation, it needed time to study the submission. The Board then

decided to note the submission and advised management to seek approval through a round robin. **GM:LRC**

5.5 IoD Report

The meeting was informed that the IoD Board Evaluation Report had not been made available to the Board.

The Company Secretary further explained that he had never seen the report and that he was only involved in the Board Evaluation process at commencement of thereof. Thereafter, the role of his office was limited to facilitating distribution of questionnaires, return thereof to IoD, extension of scope to include interviews and making arrangements for interviews.

When following up on the report, his office was informed by IoD that it was dispatched to the Chairperson on 19 December 2013. The Company secretary followed up with the Chairperson who undertook to circulate the report to the members of the Social, Ethics, Governance and Nominations Committee (SEGNCO). The initial plan was to have the report considered at a meeting which was convened for 10 January 2014. The meeting was later rescheduled for 19 January 2014. The meeting of 19 January 2014 also did not take place as it was later cancelled.

The directors who were members of SEGNCO were asked to share the report with the Board. The Board also decided that, as it was out of time, the report had to be considered by the Board without a recommendation from SEGNCO.

Copies of the report were made and circulated at the meeting. The Board expressed a concern regarding the deviation from the normal process of involving Company Secretariat in the Board evaluation process. Questions were raised regarding the reports on subsidiaries and the "draft" watermark contained in the document.

It was agreed that the Board would need a session where it could consider the report in detail. **COSEC**

5.6 General Board Leadership

One of the Board members suggested that the Board should have a conversation about how it was operating and its effectiveness. He pointed out that he could not be content with the lack of leadership in the Board and that it was time for the Board to address this and put a stop to it.

The sentiments were shared by most of the Board members who agreed that there were challenges with the leadership of the Chairperson. It was pointed out that some of the issues were raised in Durban and that one would have thought that Durban would be a start to iron issues out.

Other Board members cautioned against continuing with the discussions in the absence of the Chairperson and suggested that further discussions be held in her presence.

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It was pointed out that the Board session would present an opportunity for a constructive interaction on the role and style of the Chairperson with a view to coming up with possible solutions.

Some of the members further contended that the best way of dealing with the matter would be to take a holistic look at the Board, undertake a self-assessment or introspection and decide where the Board could improve. It was argued that there was a room for learning and development for all the Board members. One of the Board members contended that he did not have the same outlook. He submitted that his experience was not that there were challenges with the Board members. He cited examples of the shortcomings of the leadership.

It was conceded that the Board had challenges which had to be addressed. A suggestion was made that a Board session facilitated by IoD be convened as proposed in the IoD Board Evaluation Report.

The Board decided that this matter be dealt with together with the IoD Report and that the session be held before the dinner scheduled for 29 January 2014 with the Minister. **COSEC**

6. CLOSURE

There being no other matters to consider, the Chairperson adjourned the meeting at 11h30 and thanked the members for their co-operation and input.

CHAIRPERSON

Date: 03 JUNE 2015

COMPANY SECRETARY

Date:

ANNEXURE "MB9"



SOUTH AFRICAN AIRWAYS

MINUTES OF THE SPECIAL MEETING OF THE SAA BOARD OF DIRECTORS MEETING NO 2014/04 HELD ON THURSDAY, 03 APRIL 2014 AT AIRWAYS PARK, 6TH FLOOR BOARDROOM AT 17:30

Resolution No / For Attention

Present

Ms N Kubeka	Non Executive Director
Mr B Mpondo	Non Executive Director (Chairing the meeting)
Ms C Roskruge	Non Executive Director
Mr A Khumalo	Non Executive Director
Mr A Mabizela	Non Executive Director
Ms R Lepule	Non Executive Director
Mr M Kalawe	Chief Executive Officer

Apologies

Ms Myeni	Chairperson of the Board
Ms Y Kwinana	Non Executive Director
Dr R Naithani	Non Executive Director
Mr W Meyer	Chief Financial Officer

In attendance

Mr S Dlamini	Company Secretary
Mr S Maso	Deputy Company Secretary

1. **OPENING, WELCOME, EVACUATION PROCEDURE, CONSTITUTION OF THE MEETING AND SIGNING OF ATTENDANCE REGISTER**

In the absence of the Chairperson of the Board, the Company Secretary declared the meeting open and welcomed everyone present.

He confirmed that, with the notice of the meeting having been duly issued and the quorum being present, the meeting was well constituted.

The attendance register was circulated and signed.

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2. ELECTION OF THE CHAIRPERSON OF THE MEETING

The Company Secretary requested the Board to elect a Chairperson for the meeting. The Board unanimously elected Mr Mpondo to chair the meeting.

3. APOLOGIES

Apologies from the Chairperson of the Board, Ms D Myeni, and Ms Y Kwinana were noted.

4. ADOPTION OF AGENDA

The Company Secretary reported that he had just received a letter from the Chairperson with a request that it be "read at the meeting". He enquired whether the letter could be included in the agenda. The Board decided to adopt the agenda without any changes.

5. DECLARATION OF INTERESTS

Apart from Ms Roskruge, Mr Khumalo and Mr Kalawe who declared their personal interests in the matter under Item 6.1, the members declared that they had no personal financial interests in matters on the agenda.

6. MATTERS FOR DISCUSSION/CONSIDERATION

6.1 Opinion on the Unauthorised Investigation of Board members

Messrs Isaac Fenyane and Kevin Markman from Edward Nathan Sonnenbergs (ENS) joined the meeting.

Copies of the legal opinion written by ENS were tabled. The Board agreed that members would be given ten minutes to peruse the legal opinion as it was circulated at the meeting for the first time.

(The meeting adjourned and resumed after ten minutes)

When the meeting resumed, it was decided that the three (3) affected directors would listen to the attorneys and ask questions, but they would be asked to recuse themselves from the Board deliberations. Messrs Markman and Fenyane took the Board through the opinion highlighting the conclusions reached by ENS on each of the matters or questions they had been instructed to opine on as follows:

1. ***Whether the Board was at liberty or under a legal duty to act against the director who had allegedly initiated the unauthorised investigation of Board members (the relevant director).***

   1.1 The Board would be entitled to act if it could be determined that the relevant director acted without any basis for her suspicion or used her power for an improper purpose.

   1.2 The Board might, however, have difficulty, if the relevant director could be able to prove that:

   a) she had a suspicion that the concerned directors were acting in a manner that was prejudicial to the interests of SAA.
   b) she acted in good faith.
   c) she exercised her powers for a proper purpose rather than for an ulterior purpose.

2. ***How should or how may the Board act against the relevant director?***

   2.1 The Board would be entitled to act if the relevant director acted in bad faith and/or for an improper purpose. However, the Board would have to carry out an enquiry to reach this determination.

   2.2 If after the enquiry, the Board would be convinced that it would be able to prove that the relevant director acted in bad faith and/or for improper purpose, the Board might apply for the relevant director to be declared a delinquent director or to be placed under probation.

3. ***What are the rights and remedies of the concerned directors?***

   The concerned directors would have an action if, during the investigation, their rights to privacy and good reputation were infringed.

   The concerned directors would have recourse against the relevant director if she instructed the investigator to resort to unlawful actions; and/or if she had intentionally and wrongfully published her suspicions and thereby damaged the reputation of the concerned directors.

4. ***To what extent can SAA financially support an action by the concerned director?***

   The Companies Act does not provide for advance of expenses to directors to institute civil claims but only provides for advance of expenses to directors to defend civil claims.

The Board commented and raised questions as follows:

- The issue about "gut feeling" or "suspicion" should be expanded on.
- The opinion should indicate that it was based on limited facts and that upon investigations into or enquiry into all circumstances that led to the unauthorized investigation, a different conclusion could be reached.
- There was evidence that company information was used in this case.
- Any clarity regarding the motive or intention could be ascertained through an investigation as the relevant director was the only repository of the information. The Board's action could only be after an investigation into her conduct and into all the circumstances.
- Does a private individual or non statutory body have a legal right to access other persons' telephone and credit records of individuals? This question should be further clarified and expanded on.
- In the light of the fact that the relevant director was a legal practitioner, it would be reasonable that it be confirmed whether there was any relationship between her and the attorneys who drafted the legal opinion or ENS.
- Regarding question 4 above, the Board pointed out that there was appreciation that SAA could not assist the concerned directors to institute action against the relevant director. The question was whether SAA could provide any support to defend or protect the concerned directors from the conduct of the relevant director.

The attorneys responded to all the questions and comments, and requested that they be given an opportunity to review their opinion in the light of the comments and information provided by the Board.

Regarding the conflict of interest issue, they confirmed that the conflict of interest check was done, after taking instruction, and none of the attorneys involved in this matter had any relationship with the relevant director.

(*The attorneys then left the meeting.*)

(*At this stage, the Chairperson requested Mr Andile Khumalo, Mr Monwabisi Kalawe and Ms Carol Roskruge to recuse themselves from the meeting.)*

The Board deliberated on the way forward and **RESOLVED** that: 2014/04/01

- the attorneys be instructed to review their opinion in the light of the comments Co Sec

and information provided by the Board.

- the Company Secretary prevail on the attorneys not to charge additional fees for the review of their legal opinion. — Co Sec
- the final opinion be submitted to SAA by Wednesday, 9 April 2014. — Co Sec
- a revised file note be submitted to management to satisfy themselves that the issues raised by the Board were correctly reflected. — Co Sec

Mr Andile Khumalo, Mr Monwabisi Kalawe and Ms Carol Roskruge joined the meeting and the resolutions of the Board as set out above were communicated to them.

6.2 Liquidity Risk and Funding Requirement

The Group Treasurer took the Board through the above report and highlighted certain aspects. He pointed out that an amount of R3,135 billion would be required as additional total working capital for the financial year 2014/15. He proceeded to say that the financing of the said working capital should be done in two parts. The first part would cover the additional working capital of R1.5 billion in the first half of the 2014/15 financial year, while the second tranche would be required to cover the working capital of R1.4 billion during the second half of the 2014/15 financial year.

The Group Treasurer went on to state that R5,010 billion of the total of R7,906 billion guarantees had been utilised, leaving a balance of R2,896 billion. In the light of the working capital requirements (R3,135 billion) for 2014/15 financial year, SAA would have a guarantee shortfall of R239 million.

It was further reported that SAA had taken some initiatives to alleviate the cash flow and liquidity risks. The initiatives included the SAP Compliance Project, Cash Preservation Project, Working Capital Optimisation and Renewed negotiation with Airbus to recover about 80% of the A320 Pre Delivery Payments (PDPs).

The Board requested management to quantify the initiatives and commit to achieving specific amounts or outcomes. Management undertook to come up with the estimates within a week from the date of the meeting. — Group Treasurer

The Board further suggested that a meeting between management and the Board — Co Sec

be convened to discuss or consider options and plans to mitigate the risk of the rejection of the capital injection application.

The Group CEO advised that management would draft a paper which would also cover the capital structure of SAA. He undertook to have the paper completed by end of April 2014. The proposed meeting would be scheduled immediately after the paper is completed.

Group CEO / Co Sec

Regarding the working capital optimisation, management was requested to verify the outcomes in respect of the 13 initiatives being undertaken and contract with the Audit and Risk Committee on the achievement thereof.

Group Treasurer

The Board **RESOLVED** to:

2014/04/02
CFO

1. approve that SAA pursue the following options:
   a) Debt capital market funding, i.e. a Domestic Medium Term Note programme ("DMTN");
   b) Bank funding - in an effort to urgently finance sufficient cash to bridge SAA's cash flow requirements until November 2014. In the meantime, all efforts would be made to pursue the going concern requirements and calculations and submitting the same to National Treasury and Department of Public enterprises to provide equity or capital injection to the company to restore the solvency levels.

2. approve the funding requirements as set out in the Table below:

	R'm
Opening Cash Balance	(350)
Net Cash movement	(2,977)
Add: Total estimated Cash Inflow	38,033
Less: Total estimated Cash Outflow	(41,010)
Gross Funding Requirement	(3,327)
Add: Restricted Cash	(743)
Add: Working Capital Buffer	(250)
Add: Additional ATL Guarantee	(120)
Total cash required	(4,440)
Less: Short-term bank funding	1,305
Total working capital requirement to finance	**(3,135)**

3. mandate the Chief Financial Officer to finance additional term funding of R1.5 billion on the back of the Going Concern Government Guarantees.

4. mandate the Chief Financial Officer to approach the financial markets (banks and Capital Markets through DMTN) with pricing of the above funding request and revert back to the Audit & Risk Committee and the Board for final approval before finalising the funding arrangements.

5. note that management would contract with the Audit and Risk Committee and Board on the initiatives to alleviate the cash flow and liquidity risks including:

a) SAP Compliance Project
b) Cash Preservation Project
c) Working Capital Optimisation
d) Renewed negotiations with Airbus to recover at least 80% of the A320 pre-delivery payments .

In addition, the Board requested management to:

a) quantify the Rand benefit of implementing the proposed conditions when accessing the first phase of funding (i.e. R1,5 billion).
b) verify the estimated potential savings as reflected by the 13 priority initiatives with regard to cash release potential of R1,9 billion and revise Profit and Loss statement to show the impact.
c) conduct a study on SAA's options to achieve sustainability. This should include the lessons from the Etihad business model.
d) provide a comprehensive report on the weaknesses of SAA's equity structure.

6.3 Term Loan Re-Financing Requirement

The Group Treasurer advised that the purpose of the submission was to request the Board to approve that the Chief Financial Officer be mandated to refinance the R1,544 and R1,7 billion term loans expiring in May and December 2014 respectively on the back of the guarantee.

The Board **RESOLVED** to: 2014/04/03

1. note SAA's cash and liquidity position and risk for the FY2014/2015;

2. mandate the Chief Financial Officer to re-finance the R1.544 and R1.7 billion term-loans expiring in May and December 2014 respectively on the back of the Going Concern Government Guarantees;

3. mandate the Chief Financial Officer to approach the financial markets (banks and Capital Markets through DMTN) for pricing of the above re-financing request and revert back to the Audit & Risk Committee and the Board for final approval before finalising the re-financing arrangements;

4. note the risk of not approving the re-financing requirement; and

5. note the risk of SAA trading recklessly by approving the re-financing requirement knowing that there would be not enough guarantees to cover the liability. This risk was highlighted in relation to the liquidity risk and funding requirement.

6.4 Update on Whistle-blower reports under investigation

The Chief Audit Executive (CAE) took the meeting through the summary of the report on allegations made against Board members. The summary covered the following matters:

- Details of the allegations.
- Internal Audit conclusions.
- Audit and Risk Committee Comments and resolution.

He requested the Board to approve the recommendations or decisions of the Audit and Risk Committee in respect of each of the allegations.

The Board **RESOLVED** in respect of each of the matters as follows:

1. **SAA's LTTS was leaked to SAA's competitors**
   The Audit and Risk Committee's decision that the recommendations by the Chief Audit Executive (CAE) be accepted and the matter be closed. 2014/04/04
2. **Allegations relating to IATA Conference held in Cape Town in May 2013**
   The Audit and Risk Committee's decision that the recommendations by the CAE be accepted and the matter be closed was approved. 2014/04/05
3. **Allegations relating to the Chairperson of the Board**

	It was decided that this matter be kept open until the Chief Audit Executive (CAE) received final comments from the Chairperson.	2014/04/06 CAE
4.	**Inefficient meetings of the Board** The Audit and Risk Committee's decision that the recommendations by the CAE be accepted and the matter be closed was approved.	2014/04/07
5.	**Board members flying to Cape Town only to attend a Board meeting.** The Audit and Risk Committee's decision that the recommendations by the CAE be accepted and the matter be closed was approved.	2014/04/08
6.	**Board members leaving hotels booked for other hotels, resulting in double payment by SAA.** The Audit and Risk Committee's decision that the recommendations by the CAE be accepted and the matter be closed was approved.	2014/04/09
7.	**Board members forcing Legal to use related firms for legal work** The Audit and Risk Committee's decision that the recommendations by the CAE be accepted and the matter be closed was approved.	2014/04/10
8.	**Approval of the A320 transaction** The Board decided to accept the recommendation of the Audit and Risk Committee that the Chairperson account to the Board on the changes she made to a resolution of the Board relating to the A320 aircraft funding. The Chair of the Audit and Risk Committee was requested to ask the Chairperson of the Board to formally account to the Board on the changes she made to the resolution of the Board on the A320 funding to reflect that the Board had decided that only two (2) aircraft would be funded by Pembroke. This was not consistent with the decision of the Board. Failure to give an explanation would result in the Board having difficulty in maintaining a relationship of trust with its Chairperson.	2014/04/11 ARC Chair
9.	**Delays regarding 2012/13 Going Concern Issues** The Audit and Risk Committee's decision that the recommendations by the CAE be accepted and the matter be closed was approved.	2014/04/12
10.	**Delays regarding application for R1.5 billion guarantee** The Board accepted the Audit and Risk Committee's recommendation that this matter be closed, subject to the Group CEO taking appropriate corrective action against the Chief Financial Officer.	2014/04/13 Group CEO

11. **Delays regarding submission to Procurement and Tender Processes Committee (PTPC) of Engine Maintenance Contract**

The Audit and Risk Committee's decision that the recommendations by the CAE be accepted and the matter be closed was approved. 2014/04/14

12. **Delays regarding statutory submission of the 2012/13 Financial Statement to Audit and Risk Committee**

The Board accepted the recommendations of the Audit and Risk Committee that: 2014/04/15

a) the statutory requirements relating to the annual financial statements be presented by the Company Secretary at the next meeting of the Audit and Risk Committee and to Social, Ethics, Governance and Nominations Committee (SEGNCO). Co Sec

b) the CFO must liaise with the Chairperson of the Audit and Risk Committee on the expectation of the Committee regarding statutory submissions for the financial year 2013/14. CFO

13. **Delay in finalisation of 2012/13 Annual Report resulting in postponement of 8 July 2013 Audit and Risk Committee meeting**

The Board resolved that this matter be closed subject to the Company Secretary presenting a submission on the statutory requirements relating to the financial statements to the Audit & Risk Committee and SEGNCO meetings as proposed above. 2014/04/16 Co Sec

14. **Adv. Nkosi-Thomas altered an opinion without knowledge of the author, Ms F Thabethe.**

The findings by Internal Audit were that, given the material differences between the two opinions, Ms Thabethe should have been accorded an opportunity to see the second opinion. Alternatively, it would have been more appropriate for Adv. Nkosi-Thomas to present the second opinion to the Board as hers and not that of Ms Thabethe. 2014/04/17

The Board requested that Legal provide guidance on the implications of the findings so that the Board could take appropriate action. GM: LRC

15. **Allegations against SAA management**

The CAE reported that he received a Whistle Blower's report containing allegations against management. The Board enquired as to how this report was received by the CAE. He advised that it was communicated by the Chairperson of the Audit and Risk Committee.

Some of the members questioned whether or not that report was not the same report that the Chairperson of the Audit and Risk Committee wanted to give to external investigators.

After deliberations, the Board **RESOLVED** that the CAE be allowed to investigate the allegations and table his report to the Audit and Risk Committee in accordance with the standard process. 2014/04/18 CAE

6.5 Meeting of the Board with Minister and Deputy Minister held on 18 March 2014

In the absence of the Chairperson of the Board, the Board decided to defer this matter to the meeting scheduled for 29 May 2014. 2014/04/19 Co Sec

6.6 Meeting of the Board Chairman, Audit & Risk Committee Chairman and CEO with National Treasury on 19 March 2014

The Group CEO reported that he received an invite from National Treasury to attend a meeting with the Director General: National Treasury. He explained that the individuals required to attend the meeting with him were the CFO, the Chairperson of the Board and the Chairperson of the Audit and Risk Committee.

In his discussions with the DDG: Legal and Governance of DPE about the invitation, the DDG indicated that she would not advise DPE to attend the said meeting.

The Group CEO decided that management would need some time to prepare for the meeting and requested National Treasury to reschedule the meeting for the following week. National Treasury insisted that the CEO should come to the meeting without his management. He then attended with a view to having the meeting rescheduled for a later date. Upon arrival at the meeting, he established that the Chairperson and the Chairperson of the Audit Committee were in

attendance. The DG: National Treasury presented a letter written by the Chairperson of the Board to the Minister of Public Enterprises and copied to the Minister of Finance and indicated that the matters to be discussed emanated from that letter. The CEO advised that he would find it difficult to participate in that meeting as the Chairpersons had no mandate from the Board.

At this point, the Board enquired whether the Group CEO or Company Secretary had a copy of the letter that was written to the Ministers. The response was in the negative. The Board also enquired about the requirements around letters written on behalf of the Board. The Board was advised that on certain matters, the Chairperson should consult with the Board, particularly on matters relating to a Board's decision or position.

The Group CEO further reported that the Chairperson stated at the meeting that DPE had advised against SAA attending the meeting.

Deliberations then ensued on the letter written by the Chairperson and the effectiveness of the Board. Regarding the latter, the Company Secretary pointed out that the Board was faced with difficult times and cited as examples the challenges between the Chairperson and the Group CEO and difficulty in arranging meetings.

He further stated that at times, the Company Secretary had to invoke the provisions of the Memorandum of Incorporation to convene meetings and that time was wasted on trivial matters.

With regard to the letter, it was proposed that it be nullified by the Board. A view was, however, expressed that the Board could have a challenge nullifying a letter which it had not even seen. One of the members contended that the letter could also be nullified on the basis of non-compliance with governance requirements in terms of which the Chairperson should have, at least, consulted the Board. The Board then **RESOLVED** that: 2014/04/20

1. the Chairperson be and is hereby requested to provide a copy of the letter. Chairperson
2. the Board hereby distances itself from the contents of the letter based on the non compliance with the governance requirements.
3. the Company Secretary is hereby requested to compile a report on the Co Sec

effectiveness of the Board.

10. CLOSURE

There being no further matters to consider, the meeting was adjourned.

CHAIRPERSON

Date: 03 JUNE 2015

COMPANY SECRETARY

Date

COMMISSION OF INQUIRY INTO STATE CAPTURE

ANNEXURE "MB10"



153 "MK6"

Ms. Dudu M. Myeni

Chairperson of SAA,

6th Floor, Airways Park,

OR Tambo International Airport,

Johannesburg,

South Africa

CC. The Honourable Minister of Public Enterprises, Mr. Malusi Gigaba (MP)

28 January 2014,

RE: LEADERSHIP CHALLENGES IN RELATION TO THE CHAIRPERSON OF SOUTH AFRICAN AIRWAYS (SOC) LIMITED (SAA)

1. INTRODUCTION

At the Special Board meeting held on 22nd January 2014, a matter was tabled and discussed in relation to the conduct of the Chairperson of SAA (the Chairperson). After deliberation, the SAA Board (the Board) resolved that the most appropriate manner in which to handle this matter would be to table it in the Chairperson's presence as she was unfortunately not in attendance

The Company Secretary's office proceeded to schedule a Special Board meeting for 28th January 2014 in order to consider the Institute of Directors of Southern Africa (IoDSA) report, in preparation for the SAA Annual General Meeting (AGM) scheduled for 29th January 2014, and for the Board to discuss the above matter in the Chairperson's presence.

On 27th January 2014, the Board received email communication from the Chairperson stating that she would not be attending the said Special Board meeting, notwithstanding the Board resolution. The Chairperson further confirmed that she had shared this email communication with the Honourable Minister of Public Enterprises (the Minister).

In light of the above context, we, the undersigned, are extremely concerned SAA Non-Executive Directors, who wish to state our major dissatisfaction with the leadership of the Chairperson. The decision to put these matters, in writing, has not been taken lightly and recent developments leave us with no option but to raise these to the Chairperson and copy the Minister.

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2. THE CHALLENGE

At the AGM held on the 15th October 2012, the Minister amongst other instructions stated that: *"I have mandated the new Board primarily to turn the airline around to a position of financial independence and operational efficiency."* At the time, SAA was undergoing very challenging times with a lot of bad publicity plaguing the business. We clearly understood the Minister's mandate to us and have taken it very seriously during our tenure thus far. As such, during the past 15 months or so, the majority of us have endeavoured to give of our best in responding to the mandate bestowed upon us through delivering on the promises of the Long Term Turnaround Strategy (LTTS). Key amongst these concerns is the lack of leadership displayed by the Chairperson. The challenges outlined below demonstrate why it is extremely difficult and virtually impossible to operate optimally in an environment that is not conducive to achieving the Shareholder mandate.

We are of the collective opinion that, in accordance with our fiduciary responsibilities to SAA, we owe it upon ourselves as Board members to raise these issues. In accordance with the resolution of the Special Board meeting of 22nd January 2014, we had hoped to discuss these matters at the meeting of 28th January 2014.

2.1 Undermining the Narrow Body Fleet Financing Process (10 – 2 – 10)

On 27th May 2013, the SAA Board, at a meeting held at Airways Park, adopted a Board resolution to approve Pembroke as financiers for the first 10 deliveries of the A320 narrow body fleet. The meeting was adjourned for completion at a Cape Town venue scheduled for 02nd June 2013. Ahead of that sitting, the Chairperson wrote to the Company Secretary seeking clarity as she understood the approved resolution was for 2, and not all 10 aircraft ***(1st attempt)***. Board members responded to the correspondence to clarify that it was in fact all 10 aircraft. The Chairperson once again raised the matter at the meeting in Cape Town, suggesting that due to some new information, the board ought to reconsider the decision ***(2nd attempt)***. The Board deliberated the matter further and once again, reiterated its position to adhere to the original resolution taken at the May 2013 Board meeting at Airways Park. Subsequent to the Board meeting in Cape Town, the Chairperson again requested the Company Secretary to draw the recording of the meeting to confirm that the funding was indeed for 2 aircraft only ***(3rd attempt)***. The Company Secretary responded affirming the earlier position that the Board had resolved on Pembroke financing all 10 aircraft.

On the 23rd June 2013 the Chairperson penned a letter with the Section 54 application to the Department of Public Enterprises, advising the Minister that the Board had amended its resolution from financing 10 to financing 2 aircrafts ***(4th attempt)***. The truth is that this letter was never previewed by the Board and even more disturbing was the attempt to <u>change</u> a Board resolution. This amounted to a gross misrepresentation of the facts as the Board <u>did not change</u> its resolution. Notably, on the 8th July 2013, the Chairperson of Audit & Risk Committee, supported the Chairperson's plans to overturn the Board resolution. In addition to this, the Chairperson was cautioned in writing by at least 5 Board members against her repeated attempts to change the Board resolution, in contravention of ***Clause 27.5 of the***

Memorandum of Association (MoA). To date her motives in relation to this matter remain a mystery to us all.

2.2 Wide Body Procurement Process

The Board confirmed in September 2012 was immediately tasked to develop and complete a LTTS that would put the airline on a sustainable path. Throughout the development of this process it was mentioned that work on the replacement of the wide body fleet was becoming urgent. The SAA Board heard for the first time that the Request for Proposals (RFP) had been issued when the Department of Public of Enterprises visited the SAA Board on 24th July 2013. Most worrying for ourselves was the explanation by the Chairperson to the Minister that day to the effect that she not only was not aware of the issuance of the RFP but, also that, she believes that the then Acting CEO, Mr Bezuidenhout, had acted independently of the Board in issuing the RFP For one it is a requirement of the PFMA that the Ministry be pre-notified by the Board or Chairperson, acting on behalf of the Board, of any major procurement decision or steps to engage in a major procurement process. The Significance & Materiality levels of such a procurement require Shareholder approval, and the delegations to the Board from the Shareholder require that such a process be approved by the Shareholder representative. ***Section 22.3.4 of the MoA*** requires Ministerial approval for the acquisition of significant assets. These core governance steps were simply ignored.

Nonetheless, given these challenges, the Board has proceeded to implement measures for effective Board oversight of these acquisition process. The Procurement & Tender Processes Committee (PTPC) is now the responsible committee with direct oversight of management's activities in this process as resolved at the Special Board meeting on the 17th October 2013 in Durban.

2.3 Losses occasioned by the Chairpersons Procrastinations

Two stark examples have emerged to create anxiety among Board members as a direct consequence of untimely decision making on the part of the Chairperson.

First: attempts by the management team to get a Board resolution on the financing of the first 10 A320s. This is related to the period mentioned above where the Chairperson was personally pursuing alternative funding for the A320s without involving HoD:GSM and other relevant executives.

In May 2013 the CFO requested a Board sitting through the Company Secretary to seek approval for Pembroke funding and the meeting was not granted. On the 8th May 2013 the CFO sent a Section 54 application cover letter to the office of the SAA Chairperson. This was one month before delivery of the first aircraft. It has come to the Board's attention that there is a Section 54 application letter dated 23 June 2013 sent to the DPE by the office of the Chairperson. This was more than a month after the CFO letter of 8 May 2013 and three weeks after the Board resolution of 27 May 2013 resulting in a conclusion by the CAE that the Board

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was responsible for the delays of the A320s. This resulted in the timelines for the delivery of the A320s being extended by 4 months with the negative financial impact of the pre delivery payments amounting to an estimated R800m not being available to SAA at a time when cash was needed urgently. SAA was then placed in a position of having to increase its borrowing requirements with its lenders. The cost of this omission is still affecting SAA today.

Second: Similarly, attempts by the Board to convene meetings to address the wide body acquisition process, were cancelled at the instance of the Chairperson. This now means that SAA has lost the scheduled slots for the initial wide body deliveries. The full impact of these lost slots means the introduction of the new generation fuel efficient aircraft is delayed and SAA will incur unnecessary costs from 2016/17 when the first deliveries were planned for.

2.4 Investigations

Since the appointment of this Board, we are aware of at least three investigations, initiated by the Chairperson, into fellow Board members: Mr. A. Khumalo was investigated for allegedly leaking the LTTS to PwC, auditors of SAA. Mr. A. Mabitela is currently being investigated for his alleged role in a loan extended by SAA to SA Express. Currently, an investigation into the CEO is being contemplated (email dated 21 January 2014 from the Chairperson to Audit & Risk Committee Chairperson).

In August 2013, the Audit & Risk Committee approved an amendment to the Internal Audit Charter which provided for a process to be followed in the event of any forensic reports involving SAA staff, EXCO or Board. The Internal Audit Charter states the following:

The SAA Whistleblower service provider sends reports to the Chief Audit Executive (CAE) within the timelines outlined in the contract between SAA and Whistleblowers (Pty) Ltd. The CAE evaluates all the reports and decide what to investigate and not to investigate. The reports to be investigated are sent to Group Security Services Security Operations Center (GSS SOC) for investigation; these reports are then allocated a reference number and an investigator.

The CAE and HoD: Group Security Services shall handle all Whistleblower reported items to do with general staff members and members of management group below EXCO. The CAE shall submit all the matters to do with EXCO and Board members to all audit committee members. The audit committee shall deliberate on all such matters and decide, as a collective, on what matters to investigate or not to investigate. The Audit Committee shall report all such matters to the Board for noting. The Board Chairperson shall report such Whistleblower matters to the Department of Public Enterprises (DPE) within seven days of receiving the report from the Audit Committee. The office of the Company Secretary shall submit the resolution of the audit committee to the CAE who will then take the appropriate action. The CAE shall not accept requests to investigate or audit matters reported anonymously from any other source other than through the audit committee resolution as outlined in this paragraph.

None of the investigations mentioned above have followed this process

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The latest incident illustrates the extent to which the Chairperson and the Audit & Risk Committee Chairperson are prepared to undermine the Board and its resolutions. On 21 January 2014, the Chairperson sent the Audit & Risk Committee Chairperson (and copied the Board) on a letter written to her by an anonymous whistle-blower with a number of allegations relating to Executives and the Board. Notwithstanding the clear process outlined in the Internal Audit Charter (approved by the Audit & Risk Committee and subsequently approved by the Board) the Chairperson called for an immediate and urgent external investigation on the basis that the complaint involved management – a clear deviation from the ***Board Charter Clause 9.3.2***.

The Audit & Risk Committee Chairperson responded to the Chairperson on the same day advising that *"the Members of the AC will remember that it was decided that all whistleblows must be taken to internal audit for assessment and review. This is what has been happening. However, I must state that despite the said decision and protection pledged against any possible abuse when a subordinate investigates his/her boss, it has not been easy to interview board members in previous investigations. This is also coupled by the skill and capacity that is not there in Internal Audit (investigative capacity). With regards to the whistleblower at hand, I would recommend that you seek an independent investigator, the reason being that the CEO is involved and the company is allegedly investigating the board members. I suppose you have a right to a professional service, where necessary."*

It is important to note that firstly, the Charter provides for a process for parties to report matters through the Whistleblowing service. This is the only permissible way for matters to eventually be investigated. There was no agreement that *'whistleblows must be taken to internal audit for assessment and review.'* The Charter is clear that all such matters must be reported via the Whistleblowing service set up by SAA for this purpose.

Secondly, there has never been any concern raised by the Chief Audit Executive to the Audit & Risk Committee or the Board, of any 'investigative' capacity challenges in his department in performing its duties. The lack of 'Capacity' is now being used as one of the reasons to deviate from the Internal Audit Charter, by the Audit & Risk Committee Chairperson.

Thirdly, the Audit & Risk Committee Chairperson advises that since the CEO and the Board are implicated, the Company should procure the services of an external investigator. This is not only in direct contravention of the Internal Audit Charter, that both the Audit & Risk Committee Chairperson and the Board Chairperson should be aware of, but could easily result in unauthorized expenditure. In approving the Charter, the potential of the Chief Audit Executive investigating other EXCO members and Board members was discussed at length by the Audit & Risk Committee. The Audit & Risk Committee decided that all matters, whomever they involved, should be reported via the Whistleblowing service.

We refuse to be managed by fear and victimisation in this Board. The repeated failure by the Chairperson and the Audit & Risk Committee Chairperson to adhere to governance as outlined the Internal Audit Charter, amounts to gross misconduct.

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The conduct of the Chairperson in overtly acting against resolutions or seeking to change resolutions is becoming pervasive. It happened with the A320 financing transaction. It continues to happen with whistleblowing and investigations.

2.5 Interference in Board Committees

A Chairperson is a reference point when it comes to a number of matters that define a Board collective such as, ethics, diligence, morality, impartiality and fairness. Whilst we accept that all members of a Board need to espouse these qualities, the heavy responsibility to lead places a serious load on the shoulders of a Chairperson. It is also the responsibility of fellow Board members to ensure that they play their part in ensuring that these qualities are well adhered. One of the stages around which these qualities play themselves out are the Board as well as its supportive Committees. Important to note here are that committees are the functionary arms of the Board and their effectiveness by extension determines the effectiveness of the Board.

The guidance of the Chairperson along with the qualities mentioned above are critical for the functioning of the Committees. However, what we have become accustomed to at SAA is confusion that is sowed and interference by the Chairperson in Board Committee matters to the extent where the Chairperson claims to be a member of all Board Committees. Good corporate governance suggests that a Chairperson like any other Board member is allowed to attend any Committee meeting but is not a member of any committee except Social Ethics Governance & Nominations Committee (SEGNCO) which the Chairperson of the Board needs to Chair. This claim of being a member of committees as well as the interference, compromises the impartiality of the Chairperson who also needs to play the role of the arbiter when there are issues that require such.

A few issues worth noting are the following:

- Various investigations that are initiated by the Chairperson through the Chairperson of the Audit & Risk Committee when there is a Board approved process in place,
- Entering into a performance contract with the CEO assisted by the HR & Remco Chairperson without the HR & Remco members and the Board having sight and approved of the contract, in contravention of ***Section 21.4.3 of the MoA***.
- Attempts to defy the Shareholder's directive with regards to the Wide Body procurement transaction through trying to usurp the powers of the PTPC.

These types of acts therefore hamper the work of the Committees and serve to detract them from their mandated tasks. It further makes it difficult to trust the impartiality of the Chairperson on matters considered by the Board given the interference.

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2.6 Inefficiencies

2.6.1 **Board Administration**

Board meetings are often taken over by 'In-Committee' discussions and very often the agenda is often not completed. This leads to a large number of Special Board meetings being convened mostly to complete agenda items that were not addressed. Even today, there are agenda items that have been tabled at previous meetings that are still not dealt with by the board. This inefficiency has resulted in urgent matters, that require Board resolution, not being considered in time, and thereby placing the company at risk of financial loss.

2.6.2 Preparation for the 2012/2013 AGM

After repeated requests and insistence by Board members to urgently sit and consider the IoD report and prepare for the AGM, the Board eventually met on 22nd January 2014. It is of concern that the lack of planning has resulted in the AGM submission being presented to the Shareholder less than a week before the AGM. The Board still awaits the Chairperson's explanation for requesting a waiver to the AGM 15 day notice period. The Board notes that we have consecutively not complied with SAA AGM notice requirements to the Shareholder. We see no reason why the Board is characterised by inefficiencies of this nature.

2.6.2.1 The IoD Board Appraisal Report

As is customary with regards to evaluating Board performance the Board was requested to conduct an assessment of its performance. The directive to the Board was that it needed to fill in the questionnaires that were provided which as we are accustomed to is normal. Having completed this exercise, the Chair saw it fit to unilaterally amend the methodology. This according to our recollection was not agreed to by the Board. We were made to understand by the Company Secretary that the report was ready in December 2013 but that his office was not in possession of a copy. This was quite an anomaly as the process was facilitated by the Company Secretariat's office and good practice suggests that the report be disseminated by IoD to the Chairperson and the Company Secretariat. The Board has therefore struggled to obtain a copy of its report which has been in the Chairperson's possession. This has had the effect of denying the Board (and effectively Subsidiary Boards) access to feedback on its performance and has also not allowed enough time for the Board to deliberate on the report ahead of the AGM

Furthermore a SEGNCO meeting scheduled for the 17th January 2014 could not take place as the Chairperson of SEGNCO was not in attendance – the reason proffered by the Company Secretary was not convincing. The members that were present were made aware of this fact upon their arrival at Airways Park. In addition the document i.e. the IoD report which was on the agenda was not available for circulation as the Chairperson was the only one who possessed a copy. After much prodding the report was made to the SEGNCO members by the Chairperson on Tuesday 21st January 2014 and shared by a Board member with the rest of

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the Board at the Special Board meeting held on the 22nd January 2014. This delay clearly contravenes ***Board Charter Clause 10.1.7***. To date, the Board has not deliberated on the IoD report prior to it being tabled at the AGM. We therefore find this type of conduct in a leader very difficult to fathom as it sows mistrust and renders the Board ineffective in dispensing with its duties.

2.6.2.2 Sign off of A320 narrow body transaction

Board approval required for the amendment in the finance terms of the third aircraft in the A320 narrow body fleet transaction is a case in point. In the agenda and pack of the Board meeting of 28th November 2013, was a submission by Executives to the Board requesting an approval of a variation of the financing of the third A320 aircraft from a novation structure to a sale and leaseback structure. The matter was urgent because Airbus was to deliver the aircraft on the 30th January 2014. Failure to put in place all the financing arrangements would lead to penalties and storage fees being levied by Airbus to SAA. The 28th November 2013 Board meeting did not consider this matter. On 19 December 2013, the Company Secretary sent out email communication requesting Board approval to amend the financing arrangement of the third aircraft from a novation structure to a sale and leaseback structure. The submission highlighted the reasons for such a request, its urgency, and the financial effects of it. On 09th January 2014, the Company Secretary sent a reminder email communication, once again highlighting the urgency of the matter. Similarly on the 19th January 2014, the CEO communicated the risks associated with delays in signing off the transaction.

The Board eventually met 9 days before the third aircraft was to be delivered to SAA. At this meeting (where the Chairperson was not present), the Board was informed that due to the failure of the Board to resolve on this matter in time, SAA was expected to incur an estimated R2million of penalties and storage costs from Airbus. It was confirmed that this was purely because the Board did not meet to consider the request in time. Had it not been for management successfully negotiating with Airbus to waive the penalties and storage costs, SAA would've incurred fruitless and wasteful expenditure purely because of the inefficiencies of the Board. No leadership was provided, even when the Chairperson was alerted of the dangers of a delayed decision by Company Secretary and some Board members.

The above instance is but an illustration of what an inefficiently led Board can mean for an organisation of the size of SAA, particularly one going through a major turn-around. The Board Chairperson has repeatedly demonstrated that she is not equal to the challenge of leading this Board towards a successful turn-around of the airline. Furthermore, the inefficiencies further undermine ***Board Charter Clause 6.1.2.***

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2.7 Disregard for Board Resolutions

A Board resolution is a very serious instrument for the Board to carry out its duties and needs to be honoured and carried out with absolute diligence and care. Failure to do this puts the organisation at complete risk. In this regard an extremely worrying matter for us is what seems to be the complete disregard from the Chairperson for Board resolutions contrary to the requirements of ***Section 27.5 of the MoA***. We need to emphasise that this is an extremely grave matter which has been demonstrated above by various transgressions some of which have been outlined above. Under the current Corporate Governance dispensation the Board is jointly and severally liable for any transgressions and omissions on its part. Altering of Board resolutions puts us squarely in this class action target zone. For us concerned Board members, this is completely unacceptable and will not be tolerated as it has potential adverse impacts for our professional careers.

3. CONCLUSION

This letter demonstrates repeat transgressions of corporate governance, undermining due processes approved by the Board and a lack of diligence and care on the part of the Chairperson on extremely important matters.

All the examples employed above are illustrative of a leadership style that potentially will expose all serving Board members to liability. We specifically highlight the risks associated with non-compliance with ***Section 76 "Standards of Directors Conduct" & 77 "Liability of Directors and Prescribed Officers" of the Companies Act, 2008.***

In the exercise of our fiduciary obligations we recognise the need to uphold the highest standards of governance.These issues are seriously impacting on our performance individually and collectively. It is our sole intention to continue to put our shoulders behind the proverbial wheel with the aim of turning the organization around. Increasingly it appears to us that our best efforts will be in vain given the realities we are operating under.

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Sincerely,

Concerned SAA Non-Executive Directors

Mr. Andile Khumalo _____

Ms. Nonhlanhla Kubeka _____

Ms. Raisibe Lepule _____

Mr. Andile Mabizela _____

Mr. Bongisizwe Mpondo _____

Ms. Carol Roskruge _____

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ANNEXURE "MB11"



Annexure "A"

Honourable Directors

I hope you all had a good rest this weekend. I had a good rest but I am starting to worry about the Rand Performance, given the fact that we also transact in dollars.

I would like to respond to the request:
Special Board meeting for 28th January 2014

I have received a draft notice /agenda for a special board meeting scheduled for the Tuesday 28th January. I received this via email on the afternoon of Thursday 23rd.

My subsequent conversation with the Company Secretary informs me that the decision to hold this special meeting was tabled at the previous special meeting held in my absence on the 22nd January 2014.

I am troubled by a number of matters relating to this notice:

This is not a scheduled meeting and presuming therefore that it is an urgent matter I note that it provides at most 3 working days' notice and contains no clue as to the importance of the discussion at least for one to prepare. I would have expected the Company Secretary or the CEO to inform the Board that this is improper notice.

The draft notice has one item on the agenda, being "Board leadership" for which I as Chairperson have been allocated the responsibility of presenting. This has not been raised with me by members of the board and therefore I have no idea of the context or purpose of it and quite unprepared to lead in discussion of this topic.

I would be extra careful on arrangements similar to the one of October 16/17 in Hilton, Durban, where Board Members cancelled the planned Agenda, wrote down own Agenda, and the meeting was about certain Board Members, and I had no pack for the new agenda to enable the meeting and discussion to flow and proceed effectively. I was at the receiving end. The meeting took the form of a court room where I was rubbished. Being rubbished, even on emails. I would not take that risk again as, from that meeting, I learnt more.

The special board meeting is presumably called at short notice due to its urgent nature. Perhaps the CoSec or our CEO might enlighten me as to the motivation for such urgency.

I believe, we all, as Board members subscribe to the Board Charter. This makes it quite clear that the Chairperson is responsible inter alia:
6.1.3. The Chairperson must ensure that the content and order of the agenda are appropriate and that we all have the relevant papers in good time. The Chairperson must also ensure that Board members are properly briefed on issues arising at Board meetings and that all available information on an issue is before the Board.

I would reasonably have expected members of the Board proposing this meeting to be cognisant of the Charter or alternatively seek guidance from the CoSec, who is supposed to work with me and the board for its effectiveness and closely or the CEO.

It goes without saying that convening a Board meeting without reference to the Chairperson, who is asked to Chair the Meeting on " Board Leadership" or identifying items for its agenda are irregular.
The subject of the special meeting is "Board leadership". I am not privy to the context of this topic but I might bring to your attention, if not already known, that in terms of the company's MOI the Directors and the Chairperson are appointed in a general meeting of the shareholders.

Annexure "A"

Board Appointment and Leadership per se falls within the domain of the shareholder.
In my discussion with the Company Secretary, I indicated that I need to be told if what is being done is at the behest of the Minister. If not, I need to know if he is aware of the role we are now focusing on, that of, Board Members fit to serve at SAA and or Chairperson fit to serve at SAA.

Where there is clear and relevant purpose it should also be a matter for the Board but presently that purpose appears to me as obscure, and I would not want to usurp the powers that are reserved for the Minister.

The Board Charter requires a further responsibility of me - 6.1.2. The Chairperson is responsible for ensuring the integrity and effectiveness of the governance process of the Board.

I am not convinced that I would be properly exercising the obligations of my office in attending to and allowing a special meeting at short notice having its sole subject a matter which is irregular and not urgent. It is ironic that summoning a meeting such as this is illustrative of some of the self-assessment criticism contained in the IoDSA report. There appears a danger that we seek to perpetuate what we as a board are critical of. Again, IoDSA is about the Board as a collective not individuals.

On this last point, the IoDSA report that has been tabled for discussion at a prior meeting contained two comments which are pertinent and should be considered when this report is reviewed. The first is the author's caveat under Ms Naidoo's signature on page 4 that the report is the views of members of this Board and not any form of audit or objective assessment. The second appears on page 6 and is restated below.

"Phase 4: Meeting with individual directors During phase 4, the IoDSA conducted in depth interviews with only 4 of the scheduled 13 interviews. Although sufficient time was made available for all 13 interviews, the majority did not take place due to non responsiveness from board members; unavailability of members; and failure to honour meetings which were cancelled in many instances on the scheduled date."

It is again ironic that we as a collective were not able to participate in the scheduled interviews for this important exercise yet we as the same collective wish to urgently consider its findings.
The comment above is possibly the only objective assessment offered by the IoDSA (as opposed to the self-assessments) and is most concerning.

Members of the Board, I am for the reasons above not prepared to summon the proposed meeting in the manner that it is. Should there be members of the Board that feel that this is a matter for the Board's attention, I welcome their written views to me to consider – not to censor but to ensure that they are right and proper for discussion. I will ensure that matters are placed on the agenda for the consideration of the Board that are well motivated, clear in purpose and properly prepared.

As the subject matter is one that is within the domain of the Minister, as shareholder representative this letter has been copied to his office.

Yours faithfully
D Myeni
SAA Chairperson

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ANNEXURE "MB12"



SOUTH AFRICAN AIRWAYS

MINUTES OF THE SPECIAL MEETING OF THE SAA BOARD OF DIRECTORS MEETING NO 2014/04 HELD ON THURSDAY, 03 APRIL 2014 AT AIRWAYS PARK, 6TH FLOOR BOARDROOM AT 17:30

Resolution No / For Attention

Present

Ms N Kubeka	Non Executive Director
Mr B Mpondo	Non Executive Director (Chairing the meeting)
Ms C Roskruge	Non Executive Director
Mr A Khumalo	Non Executive Director
Mr A Mabizela	Non Executive Director
Ms R Lepule	Non Executive Director
Mr M Kalawe	Chief Executive Officer

Apologies

Ms Myeni	Chairperson of the Board
Ms Y Kwinana	Non Executive Director
Dr R Naithani	Non Executive Director
Mr W Meyer	Chief Financial Officer

In attendance

Mr S Dlamini	Company Secretary
Mr S Maso	Deputy Company Secretary

1. **OPENING, WELCOME, EVACUATION PROCEDURE, CONSTITUTION OF THE MEETING AND SIGNING OF ATTENDANCE REGISTER**

In the absence of the Chairperson of the Board, the Company Secretary declared the meeting open and welcomed everyone present.

He confirmed that, with the notice of the meeting having been duly issued and the quorum being present, the meeting was well constituted.

The attendance register was circulated and signed.

2. ELECTION OF THE CHAIRPERSON OF THE MEETING

The Company Secretary requested the Board to elect a Chairperson for the meeting. The Board unanimously elected Mr Mpondo to chair the meeting.

3. APOLOGIES

Apologies from the Chairperson of the Board, Ms D Myeni, and Ms Y Kwinana were noted.

4. ADOPTION OF AGENDA

The Company Secretary reported that he had just received a letter from the Chairperson with a request that it be "read at the meeting". He enquired whether the letter could be included in the agenda. The Board decided to adopt the agenda without any changes.

5. DECLARATION OF INTERESTS

Apart from Ms Roskruge, Mr Khumalo and Mr Kalawe who declared their personal interests in the matter under Item 6.1, the members declared that they had no personal financial interests in matters on the agenda.

6. MATTERS FOR DISCUSSION/CONSIDERATION

6.1 Opinion on the Unauthorised Investigation of Board members

Messrs Isaac Fenyane and Kevin Markman from Edward Nathan Sonnenbergs (ENS) joined the meeting.

Copies of the legal opinion written by ENS were tabled. The Board agreed that members would be given ten minutes to peruse the legal opinion as it was circulated at the meeting for the first time.

(The meeting adjourned and resumed after ten minutes)

When the meeting resumed, it was decided that the three (3) affected directors would listen to the attorneys and ask questions, but they would be asked to recuse themselves from the Board deliberations. Messrs Markman and Fenyane took the Board through the opinion highlighting the conclusions reached by ENS on each of the matters or questions they had been instructed to opine on as follows:

1. ***Whether the Board was at liberty or under a legal duty to act against the director who had allegedly initiated the unauthorised investigation of Board members (the relevant director).***

   1.1 The Board would be entitled to act if it could be determined that the relevant director acted without any basis for her suspicion or used her power for an improper purpose.

   1.2 The Board might, however, have difficulty, if the relevant director could be able to prove that:

   a) she had a suspicion that the concerned directors were acting in a manner that was prejudicial to the interests of SAA.
   b) she acted in good faith.
   c) she exercised her powers for a proper purpose rather than for an ulterior purpose.

2. ***How should or how may the Board act against the relevant director?***

   2.1 The Board would be entitled to act if the relevant director acted in bad faith and/or for an improper purpose. However, the Board would have to carry out an enquiry to reach this determination.

   2.2 If after the enquiry, the Board would be convinced that it would be able to prove that the relevant director acted in bad faith and/or for improper purpose, the Board might apply for the relevant director to be declared a delinquent director or to be placed under probation.

3. ***What are the rights and remedies of the concerned directors?***

   The concerned directors would have an action if, during the investigation, their rights to privacy and good reputation were infringed.

   The concerned directors would have recourse against the relevant director if she instructed the investigator to resort to unlawful actions; and/or if she had intentionally and wrongfully published her suspicions and thereby damaged the reputation of the concerned directors.

4. ***To what extent can SAA financially support an action by the concerned director?***

   The Companies Act does not provide for advance of expenses to directors to institute civil claims but only provides for advance of expenses to directors to defend civil claims.

The Board commented and raised questions as follows:

- The issue about "gut feeling" or "suspicion" should be expanded on.
- The opinion should indicate that it was based on limited facts and that upon investigations into or enquiry into all circumstances that led to the unauthorized investigation, a different conclusion could be reached.
- There was evidence that company information was used in this case.
- Any clarity regarding the motive or intention could be ascertained through an investigation as the relevant director was the only repository of the information. The Board's action could only be after an investigation into her conduct and into all the circumstances.
- Does a private individual or non statutory body have a legal right to access other persons' telephone and credit records of individuals? This question should be further clarified and expanded on.
- In the light of the fact that the relevant director was a legal practitioner, it would be reasonable that it be confirmed whether there was any relationship between her and the attorneys who drafted the legal opinion or ENS.
- Regarding question 4 above, the Board pointed out that there was appreciation that SAA could not assist the concerned directors to institute action against the relevant director. The question was whether SAA could provide any support to defend or protect the concerned directors from the conduct of the relevant director.

The attorneys responded to all the questions and comments, and requested that they be given an opportunity to review their opinion in the light of the comments and information provided by the Board.

Regarding the conflict of interest issue, they confirmed that the conflict of interest check was done, after taking instruction, and none of the attorneys involved in this matter had any relationship with the relevant director.

(*The attorneys then left the meeting.*)

(*At this stage, the Chairperson requested Mr Andile Khumalo, Mr Monwabisi Kalawe and Ms Carol Roskruge to recuse themselves from the meeting.*)

The Board deliberated on the way forward and **RESOLVED** that:

- the attorneys be instructed to review their opinion in the light of the comments

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Co Sec

and information provided by the Board.

- the Company Secretary prevail on the attorneys not to charge additional fees for the review of their legal opinion. — Co Sec
- the final opinion be submitted to SAA by Wednesday, 9 April 2014. — Co Sec
- a revised file note be submitted to management to satisfy themselves that the issues raised by the Board were correctly reflected. — Co Sec

Mr Andile Khumalo, Mr Monwabisi Kalawe and Ms Carol Roskruge joined the meeting and the resolutions of the Board as set out above were communicated to them.

6.2 Liquidity Risk and Funding Requirement

The Group Treasurer took the Board through the above report and highlighted certain aspects. He pointed out that an amount of R3,135 billion would be required as additional total working capital for the financial year 2014/15. He proceeded to say that the financing of the said working capital should be done in two parts. The first part would cover the additional working capital of R1.5 billion in the first half of the 2014/15 financial year, while the second tranche would be required to cover the working capital of R1.4 billion during the second half of the 2014/15 financial year.

The Group Treasurer went on to state that R5,010 billion of the total of R7,906 billion guarantees had been utilised, leaving a balance of R2,896 billion. In the light of the working capital requirements (R3,135 billion) for 2014/15 financial year, SAA would have a guarantee shortfall of R239 million.

It was further reported that SAA had taken some initiatives to alleviate the cash flow and liquidity risks. The initiatives included the SAP Compliance Project, Cash Preservation Project, Working Capital Optimisation and Renewed negotiation with Airbus to recover about 80% of the A320 Pre Delivery Payments (PDPs).

The Board requested management to quantify the initiatives and commit to achieving specific amounts or outcomes. Management undertook to come up with the estimates within a week from the date of the meeting. — Group Treasurer

The Board further suggested that a meeting between management and the Board — Co Sec

be convened to discuss or consider options and plans to mitigate the risk of the rejection of the capital injection application.

The Group CEO advised that management would draft a paper which would also cover the capital structure of SAA. He undertook to have the paper completed by end of April 2014. The proposed meeting would be scheduled immediately after the paper is completed. — Group CEO / Co Sec

Regarding the working capital optimisation, management was requested to verify the outcomes in respect of the 13 initiatives being undertaken and contract with the Audit and Risk Committee on the achievement thereof. — Group Treasurer

The Board **RESOLVED** to: — 2014/04/02 CFO

1. approve that SAA pursue the following options:
   a) Debt capital market funding, i.e. a Domestic Medium Term Note programme ("DMTN");
   b) Bank funding - in an effort to urgently finance sufficient cash to bridge SAA's cash flow requirements until November 2014. In the meantime, all efforts would be made to pursue the going concern requirements and calculations and submitting the same to National Treasury and Department of Public enterprises to provide equity or capital injection to the company to restore the solvency levels.

2. approve the funding requirements as set out in the Table below:

	R'm
Opening Cash Balance	(350)
Net Cash movement	(2,977)
Add: Total estimated Cash Inflow	38,033
Less: Total estimated Cash Outflow	(41,010)
Gross Funding Requirement	(3,327)
Add: Restricted Cash	(743)
Add: Working Capital Buffer	(250)
Add: Additional ATL Guarantee	(120)
Total cash required	(4,440)
Less: Short-term bank funding	1,305
Total working capital requirement to finance	**(3,135)**

3. mandate the Chief Financial Officer to finance additional term funding of R1.5 billion on the back of the Going Concern Government Guarantees.

4. mandate the Chief Financial Officer to approach the financial markets (banks and Capital Markets through DMTN) with pricing of the above funding request and revert back to the Audit & Risk Committee and the Board for final approval before finalising the funding arrangements.

5. note that management would contract with the Audit and Risk Committee and Board on the initiatives to alleviate the cash flow and liquidity risks including:

a) SAP Compliance Project
b) Cash Preservation Project
c) Working Capital Optimisation
d) Renewed negotiations with Airbus to recover at least 80% of the A320 pre-delivery payments .

In addition, the Board requested management to:

a) quantify the Rand benefit of implementing the proposed conditions when accessing the first phase of funding (i.e. R1,5 billion).
b) verify the estimated potential savings as reflected by the 13 priority initiatives with regard to cash release potential of R1,9 billion and revise Profit and Loss statement to show the impact.
c) conduct a study on SAA's options to achieve sustainability. This should include the lessons from the Etihad business model.
d) provide a comprehensive report on the weaknesses of SAA's equity structure.

6.3 Term Loan Re-Financing Requirement

The Group Treasurer advised that the purpose of the submission was to request the Board to approve that the Chief Financial Officer be mandated to refinance the R1,544 and R1,7 billion term loans expiring in May and December 2014 respectively on the back of the guarantee.

The Board **RESOLVED** to: 2014/04/03

1. note SAA's cash and liquidity position and risk for the FY2014/2015;

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2. mandate the Chief Financial Officer to re-finance the R1.544 and R1.7 billion term-loans expiring in May and December 2014 respectively on the back of the Going Concern Government Guarantees;

3. mandate the Chief Financial Officer to approach the financial markets (banks and Capital Markets through DMTN) for pricing of the above re-financing request and revert back to the Audit & Risk Committee and the Board for final approval before finalising the re-financing arrangements;

4. note the risk of not approving the re-financing requirement; and

5. note the risk of SAA trading recklessly by approving the re-financing requirement knowing that there would be not enough guarantees to cover the liability. This risk was highlighted in relation to the liquidity risk and funding requirement.

6.4 Update on Whistle-blower reports under investigation

The Chief Audit Executive (CAE) took the meeting through the summary of the report on allegations made against Board members. The summary covered the following matters:

- Details of the allegations.
- Internal Audit conclusions.
- Audit and Risk Committee Comments and resolution.

He requested the Board to approve the recommendations or decisions of the Audit and Risk Committee in respect of each of the allegations.

The Board **RESOLVED** in respect of each of the matters as follows:

1. **SAA's LTTS was leaked to SAA's competitors**
   The Audit and Risk Committee's decision that the recommendations by the Chief Audit Executive (CAE) be accepted and the matter be closed. 2014/04/04
2. **Allegations relating to IATA Conference held in Cape Town in May 2013**
   The Audit and Risk Committee's decision that the recommendations by the CAE be accepted and the matter be closed was approved. 2014/04/05
3. **Allegations relating to the Chairperson of the Board**

	It was decided that this matter be kept open until the Chief Audit Executive (CAE) received final comments from the Chairperson.	2014/04/06 CAE
4.	**Inefficient meetings of the Board** The Audit and Risk Committee's decision that the recommendations by the CAE be accepted and the matter be closed was approved.	2014/04/07
5.	**Board members flying to Cape Town only to attend a Board meeting.** The Audit and Risk Committee's decision that the recommendations by the CAE be accepted and the matter be closed was approved.	2014/04/08
6.	**Board members leaving hotels booked for other hotels, resulting in double payment by SAA.** The Audit and Risk Committee's decision that the recommendations by the CAE be accepted and the matter be closed was approved.	2014/04/09
7.	**Board members forcing Legal to use related firms for legal work** The Audit and Risk Committee's decision that the recommendations by the CAE be accepted and the matter be closed was approved.	2014/04/10
8.	**Approval of the A320 transaction** The Board decided to accept the recommendation of the Audit and Risk Committee that the Chairperson account to the Board on the changes she made to a resolution of the Board relating to the A320 aircraft funding. The Chair of the Audit and Risk Committee was requested to ask the Chairperson of the Board to formally account to the Board on the changes she made to the resolution of the Board on the A320 funding to reflect that the Board had decided that only two (2) aircraft would be funded by Pembroke. This was not consistent with the decision of the Board. Failure to give an explanation would result in the Board having difficulty in maintaining a relationship of trust with its Chairperson.	2014/04/11 ARC Chair
9.	**Delays regarding 2012/13 Going Concern Issues** The Audit and Risk Committee's decision that the recommendations by the CAE be accepted and the matter be closed was approved.	2014/04/12
10.	**Delays regarding application for R1.5 billion guarantee** The Board accepted the Audit and Risk Committee's recommendation that this matter be closed, subject to the Group CEO taking appropriate corrective action against the Chief Financial Officer.	2014/04/13 Group CEO

11. **Delays regarding submission to Procurement and Tender Processes Committee (PTPC) of Engine Maintenance Contract**

The Audit and Risk Committee's decision that the recommendations by the CAE be accepted and the matter be closed was approved. 2014/04/14

12. **Delays regarding statutory submission of the 2012/13 Financial Statement to Audit and Risk Committee**

The Board accepted the recommendations of the Audit and Risk Committee that: 2014/04/15

a) the statutory requirements relating to the annual financial statements be presented by the Company Secretary at the next meeting of the Audit and Risk Committee and to Social, Ethics, Governance and Nominations Committee (SEGNCO). Co Sec

b) the CFO must liaise with the Chairperson of the Audit and Risk Committee on the expectation of the Committee regarding statutory submissions for the financial year 2013/14. CFO

13. **Delay in finalisation of 2012/13 Annual Report resulting in postponement of 8 July 2013 Audit and Risk Committee meeting**

The Board resolved that this matter be closed subject to the Company Secretary presenting a submission on the statutory requirements relating to the financial statements to the Audit & Risk Committee and SEGNCO meetings as proposed above. 2014/04/16 Co Sec

14. **Adv. Nkosi-Thomas altered an opinion without knowledge of the author, Ms F Thabethe.**

The findings by Internal Audit were that, given the material differences between the two opinions, Ms Thabethe should have been accorded an opportunity to see the second opinion. Alternatively, it would have been more appropriate for Adv. Nkosi-Thomas to present the second opinion to the Board as hers and not that of Ms Thabethe. 2014/04/17

The Board requested that Legal provide guidance on the implications of the findings so that the Board could take appropriate action. GM: LRC

15. **Allegations against SAA management**

The CAE reported that he received a Whistle Blower's report containing allegations against management. The Board enquired as to how this report was received by the CAE. He advised that it was communicated by the Chairperson of the Audit and Risk Committee.

Some of the members questioned whether or not that report was not the same report that the Chairperson of the Audit and Risk Committee wanted to give to external investigators.

After deliberations, the Board **RESOLVED** that the CAE be allowed to investigate the allegations and table his report to the Audit and Risk Committee in accordance with the standard process. — 2014/04/18 CAE

6.5 Meeting of the Board with Minister and Deputy Minister held on 18 March 2014

In the absence of the Chairperson of the Board, the Board decided to defer this matter to the meeting scheduled for 29 May 2014. — 2014/04/19 Co Sec

6.6 Meeting of the Board Chairman, Audit & Risk Committee Chairman and CEO with National Treasury on 19 March 2014

The Group CEO reported that he received an invite from National Treasury to attend a meeting with the Director General: National Treasury. He explained that the individuals required to attend the meeting with him were the CFO, the Chairperson of the Board and the Chairperson of the Audit and Risk Committee.

In his discussions with the DDG: Legal and Governance of DPE about the invitation, the DDG indicated that she would not advise DPE to attend the said meeting.

The Group CEO decided that management would need some time to prepare for the meeting and requested National Treasury to reschedule the meeting for the following week. National Treasury insisted that the CEO should come to the meeting without his management. He then attended with a view to having the meeting rescheduled for a later date. Upon arrival at the meeting, he established that the Chairperson and the Chairperson of the Audit Committee were in

attendance. The DG: National Treasury presented a letter written by the Chairperson of the Board to the Minister of Public Enterprises and copied to the Minister of Finance and indicated that the matters to be discussed emanated from that letter. The CEO advised that he would find it difficult to participate in that meeting as the Chairpersons had no mandate from the Board.

At this point, the Board enquired whether the Group CEO or Company Secretary had a copy of the letter that was written to the Ministers. The response was in the negative. The Board also enquired about the requirements around letters written on behalf of the Board. The Board was advised that on certain matters, the Chairperson should consult with the Board, particularly on matters relating to a Board's decision or position.

The Group CEO further reported that the Chairperson stated at the meeting that DPE had advised against SAA attending the meeting.

Deliberations then ensued on the letter written by the Chairperson and the effectiveness of the Board. Regarding the latter, the Company Secretary pointed out that the Board was faced with difficult times and cited as examples the challenges between the Chairperson and the Group CEO and difficulty in arranging meetings.

He further stated that at times, the Company Secretary had to invoke the provisions of the Memorandum of Incorporation to convene meetings and that time was wasted on trivial matters.

With regard to the letter, it was proposed that it be nullified by the Board. A view was, however, expressed that the Board could have a challenge nullifying a letter which it had not even seen. One of the members contended that the letter could also be nullified on the basis of non-compliance with governance requirements in terms of which the Chairperson should have, at least, consulted the Board. The Board then **RESOLVED** that: 2014/04/20

1. the Chairperson be and is hereby requested to provide a copy of the letter. Chairperson
2. the Board hereby distances itself from the contents of the letter based on the non compliance with the governance requirements.
3. the Company Secretary is hereby requested to compile a report on the Co Sec

effectiveness of the Board.

10. CLOSURE

There being no further matters to consider, the meeting was adjourned.

CHAIRPERSON

Date: 03 JUNE 2015

COMPANY SECRETARY

Date

COMMISSION OF INQUIRY INTO STATE CAPTURE

ANNEXURE "MB13"



SOUTH AFRICAN AIRWAYS
A STAR ALLIANCE MEMBER

SAA Submission
SAA Private and Confidential
For internal use only

To:	**SAA BOARD OF DIRECTORS**
From:	**COMPANY SECRETARY**
Date:	**29 MAY 2014**

REPORT ON THE FUNCTIONING AND EFFECTIVENESS OF THE BOARD AND ITS STRUCTURES

1. PURPOSE

The purpose of this submission is to report to the Board on matters which impact on the functioning and effectiveness of the Board.

2. BACKGROUND

2.1 At the Board meeting held on 03 April 2014, the Company Secretary commented that according to his observation there were challenges at the Board level which could spiral into serious problems that could render the Board less effective. The Board agreed with the sentiments and requested the Company Secretary to provide it with a report on the challenges and effectiveness of the Board.

2.2 This report seeks to bring to the attention of the Board some of the challenges which are likely to impact adversely on the effectiveness of the Board if they are not addressed.

2.3 It should be noted that the report also includes matters which arose subsequent to the Board's request.

3. MOTIVATION

This report is aimed at reporting on the functioning of the Board as a whole and should be read together with the report from Social, Ethics, Governance and Nominations Committee.

The Board has an enormous task of directing and managing SAA into profitability and sustainability and must channel all its energy towards discharging that task in the most efficient and effective manner. The Board is accordingly enjoined to deal with these

matters in a robust and constructive manner with a view to improving the effectiveness of the governance structures.

4. Specific Matters

4.1 Board Evaluation

The Board evaluation for 2012/13 was done with the assistance of the Institute of Directors (IoD). When IoD was engaged, its brief was very clear that the assessment would exclude interviews as the Board was only six months in Office. The purpose was to make the Board aware of the areas which demanded greater focus and to have a base for the following year.

After considering the report which was submitted to the Chairperson of the Board on 2 September 2013, she decided that interviews should be included and that the Acting CEO who was only in Office for seven (7) weeks for that financial year be required to participate in the assessment. This called for a variation of the scope of work which was done and approved. This inevitably resulted in delays.

It is important to mention that most of the Board members queried this change in scope and this could have been the reason for the poor participation by the members in the process. This bad show on the part of the members invited a negative comment from the Minister at the AGM.

This was followed by delays in having the report distributed to the members. Two SEGNCO meetings at which the report was to be considered were cancelled on short notice. The report was only considered by the Board on 22 January 2014. It is also important to mention that it was circulated to the Board on that very day as Company Secretariat was not in possession of the report. One of the SEGNCO members had to make a copy available to the Board.

After deliberations, the Board took a decision that a session be held with IoD for them to crystallise the Evaluation Report and assist with the development of a remedial action plan. The process to procure the services of IoD was finalised and their proposal was given to the Chairperson on 27 March 2014. There have been delays in having the IoD session because the IoD's proposal has not been approved and the Board members were not available on the dates agreed with IoD (5 and 6 April 2014).

Company Secretariat has taken the liberty to develop the Remedial Action Plan which is attached hereto for consideration (see **Annexure "A"**). The proposed remedial actions should be endorsed by the Board before implementation. The Remedial Action Plan, per se, does highlight a number of specific areas for improvement. It should be mentioned that the Minister is expecting regular reports on the actions being taken by the Board to address governance challenges. He said this at the AGM on 29 January 2014.

4.2 Board Not A Coherent Team

Coherence includes the ability of the Board to work together and having a good atmosphere at meetings. Unfortunately certain incidents or developments leave an impression that the Board is not coherent.

To illustrate the point, one can refer to the incident where one of the Board members, who has since resigned, allegedly commissioned an investigation against some Board members without the approval of the Board.

Further, the lack of coherence has been discernible in convening special meetings of the Board, in the main, and the Audit and Risk Committee. We have had a situation where the members would want to have special meetings but the Chairpersons would argue otherwise and refuse to grant their approval.

This has resulted in the Company Secretary having to invoke the provisions of the Memorandum of Incorporation (MoI) and in meetings being held without the leadership of the Chairpersons. The cause of this has mainly been differences in opinion regarding the need for meetings and issues to be considered. This inevitably compromises the effectiveness of the Board. It creates an impression that the Board is not operating as a united team.

In the matter relating to the unauthorised investigation of some of the Board members, the leadership of the Chairperson was not visible. The last day that the Chairperson was in the SAA Boardroom was on 20 February 2014, when the sad news was broken to the Board.

4.3 Meetings between the Chairperson and CEO

One of the roles of the Chairperson is to support the CEO and give him personal advice with the Chairperson's knowledge and expertise.

The Chairperson and the CEO hardly meet and they have their own reasons why they are not meeting. It may not be advisable to venture into those reasons in this report as the Chair and the CEO could do better in making their representations to the Board.

In terms of the Board Charter, the Chair is responsible for maintaining dialogue with the CEO over operational matters[1].

The Chairperson should also maintain an informal link between the Board and the CEO and should be available to provide counsel and advice where appropriate[2].

All of the above are not happening.

[1] Clause 6.1.4 of the Board Charter
[2] Clause 6.1.5 of the Board Charter

4.4 Moratorium on meetings of the Board

In two instances, the Chairperson tried to impose a moratorium on meetings of the Board. The first incident was last year in December on a day preceding a meeting of the Social Ethics Governance and Nominations Committee. She instructed the Manager in her Office to place a moratorium.

The second incident was on 6 May 2014. The instruction was given through the CEO. When the Company Secretary requested for confirmation in writing, no response was received. The CEO took counsel from the Shareholder who advised against cancellation of Board meetings. The Chairperson did not attend the meeting and the meeting lost the quorum as a direct consequence of that. The meeting had to be delayed for about one and a half hours. The members had to wait for a member who had indicated that he would join the meeting late as he was flying from Maputo on that day for the meeting to have a quorum.

We would like to have the Board's view on addressing this matter.

4.5 Board Leadership Issues

The Board raised leadership issues at its meeting held on 22 January 2014 and subsequently wrote a letter to the Chairperson dated 28 January 2014, a copy of which was sent to the Minister on 19 February 2014.

Without going into the merits, the issues contained in the letter are too serious to be left unresolved by the Board for such a long time. They are likely to cause tension and to impact adversely on collegiality amongst the Board members. That would have a ripple effect on trust and on effectiveness.

4.6 Referral of Memorandum to the Auditor-General without Board Approval

Company Secretariat picked up from emails that one of the Board members had transmitted to the Auditor-General a 24 page memorandum from the Chairperson to the Board for investigation. This happened before the Board could deliberate on the issues raised as requested by the Chairperson. It would have been appropriate to exhaust internal processes prior to taking such action as it may be calculated to undermine internal processes, structures, and even the shareholder representative who is charged with responsibility of overseeing SAA.

4.7 Attendance at Meetings

The Minister, at the AGM, impressed on Board members to attend meetings of the Board and Committees and to report to the Ministry if they have challenges in this regard. During the previous financial year Ms Kwinana missed quite a number of meetings and thereby deprived the governance structures of her contribution. The picture with regard to the Procurement & Tender Processes Committee is even more distressing as she did not even attend one meeting during the last financial year. This

matter was reported to SEGNCO and the schedule attached hereto was subsequently provided to her as per SEGNCO's directive (see **Annexure "B"**).

The Memorandum of Incorporation provides that a director shall cease to hold office if he or she absents himself or herself from meetings of the Board for two or more consecutive meetings, otherwise than on the business of the Company or without special leave of absence from the Board who shall resolve that his or her office shall be vacated. This provision may be applied in respect of Committees.

4.8 Letters to the Shareholder

Recently, the Board learnt that a letter was written to the Minister and copied to the Minister of Finance. The contents of the letter were reportedly about concerns with regard to the financial position of SAA. The Board at its meeting held on 03 April 2014 resolved that a copy of that letter be made available to the Board by the Chairperson and the draft minutes of the meeting were distributed to all Board members. The Company Secretariat is not aware if a copy of the letter has since been made available to the Board.

Of concern regarding this matter is that there seems to be no appreciation that the Chairperson of the Board has a responsibility to consult the Board on matters requiring the decision of the Board before taking any action or expressing a position of the Board. This rule is founded on the principle that the Chairperson does not have greater authority than the other members. What the Chairperson has, is greater responsibility. Therefore, letters should not be written on the position of the Board or on decisions of the company unless the Board has been consulted or the decisions have been taken.

5. COUNTERPARTY

None

6. FINANCIAL IMPLICATIONS

There will be no financial implications arising from this submission.

7. LEGAL IMPLICATIONS

The report is consistent with the legal and governance requirements.

8. APPROVAL PROCESS

This report was directly requested by the Board, as such it may be tabled before the Board which may decide to assign it to a Committee to interrogate it and make recommendations.

9. RECOMMENDATION

The Board is accordingly requested to note the report and to take decisive actions to restore order to its operations.

SIGNATURES:

1. Compiled by:

Sandile Dlamini
Company Secretary

COMMISSION OF INQUIRY INTO STATE CAPTURE

BOARD REMEDIAL ACTION PLAN – 2012/13 EVALUATION

	ITEM	FINDINGS	INTERVENTION/ACTION	RESPONSIBLE PERSON	DATE	REMARKS/UPDATE
1.	**Board Composition**	The following skills are required: • Legal • Treasury/Hedging • Corporate finance • Organisational Development (HR/IR) Strategic • Technical • Aviation • Network Planning • Fleet Management	Letter was written to the Minister. The Chair may confirm if it was signed and dispatched. However, the Board should to debate and conclude on the list of skills. Segnco is the Committee to assist.	Chair Segnco and Board	April 2014 May 2014	
		SAA has few non-executive directors	Letter written to the Minister re additional members	Chair	April 2014	
2.	**Induction and Ongoing Training**	There is no mentorship. Training required on hedging, BEE/Procurement.	Training on hedging being organised.	Co Sec	May 2014	
			Training on BEE will be arranged	Co Sec	June 2014	
			A Training schedule will be developed after this document is finalised and agreed with Segnco	CoSec	May 2014	
3.	**Succession Planning**	Board should be involved in Succession Planning	The Plan is approved by the Board on Segnco's recommendation	Co Sec	May 2014	

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Annexure '4'

DD34-DCM-1366

BOARD REMEDIAL ACTION PLAN – 2012/13 EVALUATION

	ITEM	FINDINGS	INTERVENTION/ACTION	RESPONSIBLE PERSON	DATE	REMARKS/UPDATE
		There is animosity between directors.	Session and discussion on leadership must be held to agree on remedial interventions	Co Sec	May 2014	
		Meeting management needs improvement.	Areas for improvement must be identified and addressed	CoSec and Chair	Immediately	See Report to Segnco for consideration at meeting to be held on 5 May
		Communication needs to improve i.r.o. agenda.	The agenda should be approved by Chairs after consultation with members	Chairs and CoSec	May 2014	
		Board members are not updated on communications with Shareholder.	To make this matter a standing item on Board Agenda	CoSec	May 2014	
4.	**Company Secretary**	Office is inefficient, weak, not well functional. the office needs to be strengthened		Co Sec		
		The function should be strengthened o sub optimal functioning of the Company Secretariat				

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DD34-DCM-1367

BOARD REMEDIAL ACTION PLAN – 2012/13 EVALUATION

	ITEM	FINDINGS	INTERVENTION/ACTION	RESPONSIBLE PERSON	DATE	REMARKS/UPDATE
5.	**Board Climate**	Meetings take longer	Discussions should be more focused. Chairs must channel discussions towards the decisions required Questions/comments should be channelled towards the desired outcome	Chair/Co Sec	Immediately and on going	
		Dissenting views are not tolerated (perception).	All relevant views must be welcome	All	Immediately	
		There is room to improve maturity of interactions	Board members must at all times treat each other and management with respect	All	Immediately	
			Team Building Session should be held after the discussions on Board leadership issues	Chair/Co Sec	May 2014	
6.	**Role and input of Directors**	Directors do not appear to be prepared for meetings.	Packs are dispatched 7 days before date of a meeting	CoSec All		

COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-1368

BOARD REMEDIAL ACTION PLAN – 2012/13 EVALUATION

	ITEM	FINDINGS	INTERVENTION/ACTION	RESPONSIBLE PERSON	DATE	REMARKS/UPDATE
			Board members must read their packs			
		Board has never interrogated cash flow of SAA.				
		Board to balance its PFMA and Companies Act responsibilities.	The Board must comply with both legislation and CoSec assists in terms of ensuring that this is achieved	CoSec		
7.	IT Governance	Not enough time is spent on IT governance	Submission of IT Governance reports to the Board through a relevant Committee must be codified	CoSec	April 2014	
		There is concern about skills of the IT Staff.	CIO to report on the adequacy of skills in the IT Dept in his Governance reports	CIO	May 2014	
8.	Compliance	There needs to be improvement in compliance.	Review and improve the Compliance reports	GM:LRC and CoSec	May 2014	
		Board should be appraised of changes in laws and regulations	Review and improve the Compliance reports	GM:LRC and CoSec	May 2014	
9.	Internal Audit	The mandate of Internal Audit is not	Internal Audit Charter that is approved by ARC sets	CoSec	May 2014	

DD34-DCM-1369

	ITEM	FINDINGS	INTERVENTION/ACTION	RESPONSIBLE PERSON	DATE	REMARKS/UPDATE
		clear.	out the mandate. Copy to be made available to the Board			
		The independence of the office has not been tested.				
10.	**Pension Fund**	This matter has never been on Board agenda.	GM: HR and CFO will provided explanation why the Board should not be regularly updated on the pension fund issues	CoSec	May 2014	
11.	**Whistle Blowing**	The Board need to adopt a whistle blowing procedure with regard to the Board.	The Internal Audit Charter contains the procedure on how to deal with whistle blowing. Copy will be distributed to the Board	CoSec	May 2014	
12.	**Dispute Resolution Policy**	The Dispute Resolution Policy does not exist.	The Policy must be developed	GM:LRC	July 2014	
13.	**Board Effectiveness**	The Board is not a united team.	Session to discuss Board leadership will be held where after a team building session will held	Chair	June 2014	
		Its cohesiveness can be improved.	"			
		There is no alignment on priorities.	"			
		There is no balance	The work plans and		July 2014	

DD34-DCM-1370

BOARD REMEDIAL ACTION PLAN – 2012/13 EVALUATION

	ITEM	FINDINGS	INTERVENTION/ACTION	RESPONSIBLE PERSON	DATE	REMARKS/UPDATE
		between compliance and performance. The Board is more concerned about compliance	agendas must be reviewed to address this concern			
14.	**Expenditure**	There is no certainty regarding programmes or steps taken to avoid or prevent Irregular and Fruitless and Wasteful Expenditure.				
15.	**Ethics**	Ethical leadership needs attention.	To review the Board of ethics and submit it to the Board	CoSec	July 2014	
16.	**Corporate Governance**	The principles of good governance must be shared with all employees.	A presentation on corporate governance will be done to Exco	CoSec	July 2014	
		SAA's value proposition should be clearly articulated.				
		Board should be involved in Corporate Social Investment (CSI).	The Board will approve the Policy. Regular reports are submitted to Segnco which reports to the Board	Communications	July 2014	
17.	**Finance**	Financial Reporting needs improvement,	The Governance Cycle and Finance's business	Finance Communications	October 2014	

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DD34-DCM-1371

BOARD REMEDIAL ACTION PLAN – 2012/13 EVALUATION

	ITEM	FINDINGS	INTERVENTION/ACTION	RESPONSIBLE PERSON	DATE	REMARKS/UPDATE
		particularly i.r.o. meeting deadlines.	cycle are in place to address this challenge. A full corporate business cycle will be developed for the next calendar year	CoSec PMO		
		Focus should be on meeting Key Performance Indicators relating to going concern and cash flow				
18.	**Audit Committee**	The Chair is not leading the meeting well.	Board leadership session should be used to unpack this issue and to come up with solutions	Board	July 2014	
		Hedging and legal skills are required.	A letter has been written to the Minister re additional skills. There is also a proposal for the Board consider appointing an independent advisor with relevant treasury skills to sit at all meetings	CoSec	May 2014	
		Performance evaluation of the Committee has not been done.				
19.	**Procurement**	There is no good co-	Contracts management	GM:LRC	June 2014	

COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-1372

	ITEM	FINDINGS	INTERVENTION/ACTION	RESPONSIBLE PERSON	DATE	REMARKS/UPDATE
	and Tender Processes Committee	ordination in procurement and contracting.	function is being reviewed to make it more effective and meaningful to the business			
		PTPC meetings are not enough and are not frequent enough.	The Committee has 4 scheduled meetings per year. This is in line with good practice and in order to ensure the Committee's independence is maintained. The Committee is entitled to convene special meetings	CoSec	-	No action required
		The Board is not being involved in the procurement early in the process.	A Framework has been developed to address this matter. Management has to ensure it is implemented and adhered to	CPO	May 2014	
20.	**Social, Ethic, Governance and Nominations Committee**	The Committee is dysfunctional.	This Committee has in place terms of reference and a governance cycle. These two documents are adhered	CoSec	Ongoing	
		There is no clarity on its mandate.	Terms of reference are in place and are reviewed	CoSec	Ongoing	

DD34-DCM-1373

	ITEM	FINDINGS	INTERVENTION/ACTION	RESPONSIBLE PERSON	DATE	REMARKS/UPDATE
			annually. CoSec will continue to do that every year			
		There are no tangible outcomes from it apart from nominating members.	The work plan crystallizes matters dealt with by this Committee. It is reviewed every year	CoSec	Ongoing	
		The Chairperson does not have the required skills and expertise.	The Chair and the Committee will have to identify training requirements for the Chairperson	SEGNCO	May 2014	
21.	***Ad Hoc* Committee on Litigation**	The Board should consider de-establishing this committee.	The Board will consider a proposal to disestablish the Ad Hoc Committee on Litigation and transfer its functions to ARC	CoSec	May 2014	
		The Committee hardly meets.	The Committee has four scheduled meetings. It will adhere to the Governance Cycle for as long as it exists as the Committee	CoSec	Ongoing	
		The Chairperson does not have convincing skills and expertise.	The Chairperson was senior counsel. She has since resigned from the Board. There is no need for any remedial action	CoSec	-	**Matter Closed**

DD34-DCM-1374

BOARD REMEDIAL ACTION PLAN – 2012/13 EVALUATION

	ITEM	FINDINGS	INTERVENTION/ACTION	RESPONSIBLE PERSON	DATE	REMARKS/UPDATE
		The Chair is not available to deal with emergencies.	The Chairperson has since resigned. There is no need for any action	CoSec		**Matter Closed**
22.	**Chairperson's Report**	The Chair of the Audit and Risk Committee questions discussions of the Committee at Board meetings	The Chairperson or any member for that matter must register her or his decision to dissent at the Committee level. If she or he does that she or he would be entitled to dissent at Board level as well	Board	On going	**Matter Closed**
		The Board does not see minutes of Committee meetings.	The Minutes can be available to the members on request	CoSec	Ongoing	**Matter Closed**
		Committees do not report in a structured manner.	The manner the Chairpersons of the Committees report to the Board is benchmarked. They table written reports on the activities and decisions of the Committees	CoSec	Ongoing	
		Some of the Chairpersons need to apply or exert themselves more	The Chairpersons and the Board must commit to this	Chairs and the Board	Ongoing	
		Some of the	The Chairpersons and the	Chairs and the		

867

DD34-DCM-1375

	ITEM	FINDINGS	INTERVENTION/ACTION	RESPONSIBLE PERSON	DATE	REMARKS/UPDATE
		Chairpersons need to improve on time management as this is often ignored	Board must commit to this	Board		
23.	General	Some of the Chairpersons of committees individually decide to cancel a scheduled meeting. This is disrespectful to other members and brings into question whether these board members have sufficient capacity to discharge their fiduciary duties to SAA.	Chairpersons and /or Company Secretariat must consult with the members before decisions to cancel meetings are taken	Board	Ongoing	Matter Closed
24.	Flow of Information	Information is not readily accessible. There is poor quality of reporting.	The submissions will always be signed by the responsible executive and the CEO who take full responsibility for the quality and credibility of the reports	Executive management	Ongoing	
		There needs to be better planning on management's part so	Correspondence between the Minister and the Chair will be an agenda item	CoSec	Ongoing	

DD34-DCM-1376

	ITEM	FINDINGS	INTERVENTION/ACTION	RESPONSIBLE PERSON	DATE	REMARKS/UPDATE
		that information is received in a timely manner by the Board, especially when it comes to **correspondence between the shareholder and the Board**, where the Board is expected to action certain things. This information does not often reach the board timeously or not at all. This has to be improved.				
25.	**Storyline in Place**	Internal communication to all staff needs improvement. The message needs renewal, actively and consciously. For instance, the LTTS is 6 months old yet senior managers do not know the strategy of SAA	Since this comment, action has been taken to improve communication on LTTS. workshops have been planned and are undertaken	CEO	Ongoing	

DD34-DCM-1377

BOARD REMEDIAL ACTION PLAN – 2012/13 EVALUATION

	ITEM	FINDINGS	INTERVENTION/ACTION	RESPONSIBLE PERSON	DATE	REMARKS/UPDATE
26.	**Succession Planning**	This is not visible to the Board and needs improvement. There should be proper planning and a policy in place. There is no proper identification of successors.				
27.	**CEO**	CEO needs to get on (well) with all board members and not just a certain group.	The Board take a resolution on this matter	Board	May 2014	
		The Board should also ensure there is clarity on the reporting line of the CEO (whether to the full Board as a collective, to the Chairperson or to the Remco) and confirm his delegation of authority.	The Board must take a resolution on this matter	Board	May 2014	
		The performance contract with the CEO needs to be formalised.	The Performance contract will be finalised at next meetings of the Remco and the Board	GM:HR	May 2014	
28.	**Executive representation**	The CFO needs monitoring and often				

DD34-DCM-1378

	ITEM	FINDINGS	INTERVENTION/ACTION	RESPONSIBLE PERSON	DATE	REMARKS/UPDATE
	on the Board.	misses deadlines. CFO not adequately informing the Board on critical matters.				
		EXCO lack skills and expertise in IR (Industrial Relations).				
29.	**Access of Directors to Line Management**	Whilst access to management is not discouraged, there should be **guidelines/protocols** in place to assist the Board in not overstepping its mark. There should be **training** to assist both the Board and management in this regard.	Communication between management and the Board should be through the CEO	All	Immediately	
		There is **minimal access** except for when there are committee and board meetings.				
30.	**Reputational Management**	More education and communication needs	This has been recognised and, in response a new	CEO	June 2014	

DD34-DCM-1379

	ITEM	FINDINGS	INTERVENTION/ACTION	RESPONSIBLE PERSON	DATE	REMARKS/UPDATE
		to be undertaken to convey the **importance of SAA** to all stakeholders.	position of Shareholder & Stakeholder Relations has been created			
31.	**Inter-governmental relationships**	The Board and executive management need to make a greater effort to improve inter-government relations. At Exco level, there is interaction and at the Board level, this is only with the DPE.	This has been recognised and, in response, a new position of Shareholder & Stakeholder Relations has been created	CEO	Immediately	
		The time taken by National Treasury to agree to the guarantee extension was long.	The process must start early this year DPE, National Treasury and SAA have agreed timelines which will be adhered to	CFO	May 2014	
32.	**Relationship with Government**	Communication between the Board and the shareholder needs to be more transparent.	This will be a Board agenda item going forward	CoSec	May 2014	
		Communication received should be forwarded to the	This will be done	CoSec	Immediately	

DD34-DCM-1380

	ITEM	FINDINGS	INTERVENTION/ACTION	RESPONSIBLE PERSON	DATE	REMARKS/UPDATE
		Board at all time and in a timely manner.				
33.	**Board Meeting Packs**	Sometimes additional information is only submitted on the day of the Board meeting (**walk-ins**). This does affect Board participation as it hampers pre-reading and preparedness for rigorous debate.	"Reports to follow" and "walk-ins" will be discouraged and will not be entertained			
		The **quality of reports** is poor and needs improvement, especially from finance, risk and legal.	The submissions will always be signed by the responsible executive and the CEO who take full responsibility for the quality and credibility of the reports	Executive management	Ongoing	
		Board packs do not facilitate decision making by the Board. The Board is not receiving the right information from executives. The company secretary must focus on the	The submissions will always be signed by the responsible executive and the CEO who take full responsibility for the quality and credibility of the reports	Executive management	Ongoing	

DD34-DCM-1381

	ITEM	FINDINGS	INTERVENTION/ACTION	RESPONSIBLE PERSON	DATE	REMARKS/UPDATE
		crisp issues.				
34.	**Agenda Setting**	Board members should participate in and comment on the preparation of the agenda.	The Chairs must consult with other members before approving the agendas	Chairs	Ongoing	
		Agenda need to focus on the right issues and in the right order.	The Chairs must consult with other members before approving the agendas	Chairs	Ongoing	
35.	**Updates Between Meetings**	This needs to be improved. The Board is updated only on requested matters.				
36.	**Response Times**	The number of **round robins** needs to be decreased.				
		Management's poor planning and declaration of all submissions as 'urgent' does put pressure on the Board in terms of timely decision making and does not give the Board an opportunity to apply its mind.	A business cycle will be developed and adhered to address this challenge	Finance Communications CoSec PMO	October 2014	

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DD34-DCM-1382

BOARD REMEDIAL ACTION PLAN – 2012/13 EVALUATION

	ITEM	FINDINGS	INTERVENTION/ACTION	RESPONSIBLE PERSON	DATE	REMARKS/UPDATE
		Management's poor attention to urgency and shareholder timelines for submission hampers Board's ability to meet shareholder timelines.				

DD34-DCM-1383

BOARD AND BOARD COMMITTEES ATTENDANCE REGISTER 2013/14 (01 April 2013 – 31 March 2014)

ATTENDANCE AS AT 31 March 2014

	SAA BOARD		ARC		REMCO		PTPC		SEGNCO		Ad HOC COMMITTEE ON LITIGATION		LTTSC	
No. of Meetings	9		7[a]		4		4		4		3		7	
DC Myeni	6	Chair							3	Chair				
LG Nkosi-Thomas[1]	5	✓	4	✓	3	Chair	nil	✓	nil	✓	3	Chair		
Y Kwinana	7	✓	6	Chair			nil	✓	3	✓			4	✓
A Khumalo[2]	9	✓	5	✓							nil	✓	7	Chair
N Kubeka	8	✓	4	✓					3	✓				
R Lepule	7	✓	6	✓					3	✓			5	✓
A Mabizela[3]	8	✓			3	✓			4	✓			5	✓
B Mpondo	9	✓			3	✓	4	Chair			3	✓	7	✓
R Naithani	8	✓			3	✓	4	✓					5	✓
C Roskruge	9	✓	6	✓			4	✓						
M Kalawe[4]	7	✓	3	✓ *	3	✓ *	3	✓ *	3	✓ *	1	✓ *	4	✓ *
W Meyer (CFO)	8	✓	4	✓ *										

Legend

REMCO Remuneration and Human Resources Committee
SEGNCO Social, Ethics, Governance and Nominations Committee
PTPC Procurement and Tender Processes Committee
LTTSC Long Term Turnaround Strategy Committee
* Attendance by invitation
ARC Audit and Risk Committee
✓ Depicts Membership of Board and/or Board Committees
1 Resigned from SEGNCO, PTPC & Air Chefs effective 8 July 2013. Also resigned from SAA Board effective 23 February 2014
2 Resigned from Ad Hoc Litigation effective 2 July 2013
3 Resigned from Air Chefs effective 8 July 2013
4 Appointed effective 1 June 2013
a Two meetings of the ARC were in-committee meetings-management was excluded

DD34-DCM-1384

COMMISSION OF INQUIRY
INTO STATE CAPTURE

SUBSIDIARY BOARDS ATTENDANCE REGISTER 2014/15 (01 April 2014 – 22 May 2014)

ATTENDANCE AS AT 22 May 2014

	SATC BOARD		SAAT BOARD		AIR CHEFS BOARD	
No. of Meetings	1		2		1	
DC Myeni						
Y Kwinana			2	✓		
N Kubeka	-	✓			1	Chair
A Mabizela			2	✓		
B Mpondo			2	Chair		
R Naithani	-	✓				
C Roskruge	1	Chair			1	✓
M Kalawe	1	✓	2	✓	1	✓
B Koyana (SATC CEO)	1	✓				
M Zwane (SAAT CEO)			2	✓		
M Kemp					1	✓

Legend

- Attendance by Invitation
- ✓ Depicts Membership of Subsidiary Board

DD34-DCM-1386

ANNEXURE "MB14"



SOUTH AFRICAN AIRWAYS

IN-COMMITTEE MINUTES OF THE SAA BOARD OF DIRECTORS MEETING NO 2014/06 HELD ON THURSDAY, 29 MAY 2014 AT AIRWAYS PARK 6TH FLOOR BOARDROOM AT 09:00

Resolution No / For Attention

Present

Ms N Kubeka	Non Executive Director
Mr B Mpondo	Non Executive Director
Ms C Roskruge	Non Executive Director
Mr A Khumalo	Non Executive Director
Mr A Mabizela	Non Executive Director (Chairing the meeting)
Ms R Lepule	Non Executive Director
Mr M Kalawe	Chief Executive Officer
Dr R Naithani	Non Executive Director
Mr W Meyer	Chief Financial Officer

Apologies

Ms Myeni	Chairperson of the Board
Ms Y Kwinana	Non Executive Director

In attendance

Mr S Dlamini	Company Secretary
Mr S Maso	Deputy Company Secretary

1 **CEO's Performance Contract**

(*The CEO was recused from the meeting*)

The Board considered the Group CEO's Balanced Scorecard (BSC) for the financial year 2013/14. It was pointed out that the commencement date should be 1 June 2013 instead of 1 April 2013.

The Board **Resolved** that the Group CEO's BSC for the financial year 2013/14 be and is hereby approved, subject to the correction pointed out above. 2014/06/1

The Board proceeded to discuss the evaluation of the Group CEO's performance. It was submitted that the process would have to be led by the Chairperson of the Board who should be assisted by the Acting Chairperson of Remco. The Board further agreed that should the Chairperson not be available to assess the Group

Resolution No / For Attention

CEO, the Acting Chairperson of Remco would lead the evaluation and could ask for support from the members of Remco. It was pointed out that no consultant should be involved in the evaluation process.

The Board further decided that the Group CEO's performance appraisal be done by 13 June 2014 and that performance contracting for the financial year 2014/15 be finalised by 30 June 2014. CEO

The CEO joined the meeting and was given feedback by the Chairperson of the meeting.

2 **CFO's Employment Contract**

(*The CFO was recused from the meeting*)

The Acting Chairperson of Remco took the Board through a proposal seeking termination of the CFO's employment contract by agreement on the basis that he would be paid a termination package equal to his remuneration for the balance of the contract period.

It was pointed out that the route of terminating as proposed above was founded on the fact that, according to the legal opinion obtained from Edward Nathan Sonnenbergs, there were no sufficient grounds to justify dismissal for poor performance.

The Board deliberated on the matter and pointed out that SAA did not have funds to pay the proposed termination package. It was added that this would invite bad publicity for SAA. It was proposed that the separation package be reduced to 6 months' remuneration and if the CFO was not prepared to accept that, he should stay and be subjected to a fair and objective performance management process. The members of Remco pointed out that the Committee had given the CEO the mandate to negotiate with the CFO but had not seen the final settlement proposal.

The Board **RESOLVED** to give the CEO a mandate to negotiate for the termination of the CFO's employment contract by agreement on the basis that the CFO would be paid an amount not exceeding 6 months of his remuneration. In the event that no agreement is reached with the CFO, the CEO and the CFO would have to agree on the performance standards, including objective goals, and monitor the achievement of the agreed performance standards through the performance management process. 2014/06/2 CEO

3 **Board Leadership and Effectiveness**

The Chairperson of the meeting pointed out that the Board had been operating without the leadership of Chair of the Board and the Chair the Audit and Risk

Resolution No / For Attention

Committee and that had been pondering about this and wondering whether there were any implications for the decisions taken by the Board.

Another member added that he also had been reflecting on the same matter and enquired as to what point would the Board approach the Shareholder with a request that she appoints another Chairperson or get the appointed Chairperson to do her work. He emphasised the point that the Board was not operating optimally.

The members of the Board agreed that it was not optimal for any Board to have a Chairperson who did not discharge her duties. It was added that the Board must engage with the Shareholder on this matter with a view to finding a solution.

Regarding the process of engaging or approaching the Minister, it was suggested that a request would have to be made through the Office of the Deputy Minister and/or that of the Director-General.

The Board further pointed out that the issues detailed in the Company Secretary's submission on the effectiveness of the Board were adequate for the Board to act decisively to restore order in the SAA Board.

The Board was in agreement that this matter needed urgent attention as it (the Board) could not afford to allow the *status quo* to persist any longer. It was reiterated that a letter be written to the DPE to request for a session with the Minister. The purpose of the session would be to give the Minister an update on Operations, the implementation of the LTTS as well as a report on the governance matters.

Co Sec

The Board sought counsel from the Company Secretary on how best to remedy the current situation, as detailed by his report. The Company Secretary advised that in the light of the issues detailed in his submission, the Board could employ the provisions of section 71(3)(b) of the Companies Act which provides for the removal of a director whom the Board has determined to have neglected or been derelict in his or her performance of the duties director, subject to compliance with the requirements relating to the notice of a meeting in which the director concerned will be afforded an opportunity to make representations. The Company Secretary explained that it would be imperative to consult the Minister prior to initiating this process.

The Board agreed that there were sufficient grounds to conclude that the Chairperson had neglected or had been derelict in the performance of her duties. The document drafted by the Company Secretary went a long way towards recording some of the issues. The Company Secretary was requested to update

Resolution No / For Attention
2014/06/3

the documents by incorporating latest information.

The Board then **Resolved** that:

- the submission drafted by the Company Secretary be adopted, subject to it being updated by incorporating the latest developments.
- a letter be written to DPE to request a session between the Minister and the Board.
- there were sufficient grounds to determine that the Chairperson had neglected or been derelict in the performance of her duties of a director and the Chairperson of the Board.
- any action by the Board should be in consultation with the Minister and in compliance with the requirements relating to the notice and the Chairperson being a given an opportunity to make representations on the issues.

4 **Legal Opinion: Unauthorised Investigation of Board members**
This matter was deferred.

5 **Communication between the Chairperson and the CPO**
This matter was deferred.

6 **Communication between the Chairperson and the GM: Operations**
This matter was deferred.

7 **Closure**
The meeting was adjourned

CHAIRPERSON

Date: 26 MAY 2015

COMPANY SECRETARY

Date 26/05/2015

ANNEXURE "MB15"



public enterprises
Department:
Public Enterprises
REPUBLIC OF SOUTH AFRICA

BRIEFING MEMORANDUM

DEPARTMENT OF PUBLIC ENTERPRISES
PRIVATE BAG/PRIVAATSAK X15
2014 -09- 09
HATFIELD 0028
DEPARTEMENT VAN OPENBARE ONDERNEMINGS

TO : **MS. LYNNE BROWN, MP**
MINISTER

FROM : **MS. MATSIETSI MOKHOLO**
DEPUTY DIRECTOR-GENERAL: LGR

FILE REF : **16/1/1**

IDMS REF : **173942**

SUBJECT : **GOVERNANCE CHALLENGES FACING THE SOUTH AFRICAN AIRWAYS' ("SAA") BOARD OF DIRECTORS**

DATE : **30 JULY 2014**

1. PURPOSE

1.1 To provide the Minister with a briefing and advice in response to a series of events and correspondences received by the Department relating to serious governance challenges and concerns facing the Board of SAA (the Board).

2. SUMMARY

2.1 The Minister has a requested briefing and advice in relation to a series of events and correspondences received from various members of the board pertaining to governance challenges facing the Board: *inter alia*, this includes:

2.1.1 A letter of resignation addressed to the previous Minister, Mr. Malusi Gigaba, from non-executive director of SAA, Advocate L.G Nkosi-Thomas SC, dated 23 February 2014, attached as **Annexure "A"**;

2.1.2 The Minister acknowledged receipt of same, accepting the resignation of Advocate L.G Nkosi-Thomas in a letter dated 11 March 2014, attached as **Annexure "B"**;

2.1.3 A letter addressed to the Minister from non-executive director of SAA, Ms. N. Kubeka relating to allegations of private investigation of Board members together with a special Board resolution, attached as **Annexures "C"** and **"D"** respectively.

2.1.4 A letter addressed to the Minister from the Board Chairperson, Ms. DC Myeni, informing the Minister of a memorandum that she addressed to the Board, attached as **Annexure "E"**.

2.1.5 A letter addressed to the Minister from non-executive director, Mr. B Mpondo, dated 22 May 2014, referring to letters addressed to the Chairperson of the Board (attached as **Annexure "F"**), to the Auditor General of South Africa (addressed as **Annexure "G"**) and to the Special Investigations Unit (attached as **Annexure "H"**) respectively, all referring to a newspaper article in the Beeld Newspaper dated 20 May 2014, pertaining to allegations of irregularities in the Company.

2.1.6 In addition to the above-mentioned correspondence, the Minister is in receipt of a copy of the letter addressed to Ms. Myeni from the Office of the Public Protector, relating to an investigation into allegations of maladministration and abuse of authority by the SAA Board of Directors, attached as **Annexure "I"**.

2.2 There is a long history of the challenges facing SAA; however, the past two years have been particularly concerning. Various actions have been taken by the Chairperson and members of the Board, resulting in the flouting of various governance prescripts governing the Board and the company, which demonstrates a complete disregard for the Department as Shareholder and the Minister, in her capacity as Executive Authority. This memorandum primarily sets out the chronology of events and proposes the way forward in respect of the SAA Board.

2.3 The Minister has requested advice on the matter. The gravity of the situation requires urgent remedial intervention on the part of the Minister. However, it is necessary to start

with the incidents that occurred prior to the 2012 Annual General Meeting (AGM) in order to give the Minister a sense of the issues as the very same issues are facing the Minister now.

3. ANALYSIS AND FINDINGS

3.1 In preparing for the 2012 AGM, the external auditors found it difficult to draft the audit opinion as the airline was not a going-concern and required an urgent equity injection. The Board engaged the Department on the issue and consequently the AGM scheduled for September was postponed to October 2012. The postponement was meant to allow for consultations with the National Treasury and Minister of Finance to secure funding through the fiscus and to allow for the adoption of the Annual Financial Statements (AFS) at the AGM. In terms of Section 65 of the PFMA, the Minister is required to table the State Owned Company (SOC) Annual Reports in Parliament by 30 September of each year. Hence, the Minister had to formally apprise the Speaker of Parliament of the issues, and that the SAA 2012 Annual Report will not be tabled within the PFMA prescribed deadline.

3.2 Prior to the letter to the Speaker, many of the financial challenges of the airline were already being aired in the media space. In September 2012 the majority (nine out of twelve) of Non-Executive Directors (NEDs) resigned with immediate effect. The decision was taken to re-appoint the 3 NEDs who had not resigned for purposes of continuity. In consultation with Cabinet, the Minister filled the vacancies in time for the AGM in October 2012. Mr. Vuyisile Kona was appointed as Chairperson and NED of the Board. Four vacancies remained to be filled at a later stage. In reflection, it is clear that the decision to retain the 3 NEDs would have resulted in the creation of two distinct factions amongst the Board of Directors that would eventually lead to the situation presenting itself today.

3.3 In spite of this development, the Board continued to operate cohesively for all intents and purposes. However, two weeks after the AGM, the then CEO, Ms. Siza Mzimela, tendered her resignation. This was followed by two more resignations at executive level. After consultations with the Department, the Board decided that given the financial challenges facing the airline, the CFO should not be appointed to act as CEO. Other EXCO members were also considered and it was decided that these executives needed to focus on the subsidiaries they were accountable for. After much deliberation, the Board proposed that the newly appointed Chairperson (Mr. Kona) be appointed as Executive Chairperson until the position of CEO was permanently filled.

3.4 This meant that Mr. Kona would perform the dual duties and responsibilities of Chairperson and CEO respectively, albeit for an interim period. Given the governance risks posed by the dual role of the incumbent, the Department believed that these could be mitigated provided the Board was given a clear mandate to expedite the recruitment of a new CEO within three months. The appointment of Mr. Kona as Executive Chairperson received wide media attention and governance experts began to raise concerns that the roles should be separated. This concern was also raised by Parliament. During this time, media reports indicated that Mr. Kona was previously an Executive at SAA who had been fired by the former CEO (Mr. Kaya Ngqula). It transpired that Mr Kona had legally challenged the termination of his appointment.

3.5 The Board subsequently wrote to the Minister requesting a separation of roles, proposing that Mr. Kona be appointed as acting CEO and that another NED be appointed acting Chairperson. This situation presented a further dilemma in that all except three NEDs were new. After weighing all implications, the Minister acceded to the Board's request and in December 2012, Ms. Myeni was appointed Acting Chairperson.

3.6 The decision was communicated to all relevant stakeholders and the Board was directed to focus its efforts on the development of a Long Term Turnaround Strategy (LTTS), a mandate that was given to the Board at a Special General meeting in October 2012. The Department was confident that the interim governance structure would enable the airline to deliver on its mandate to (i) recruit a new CEO, (ii) develop the LTTS and (iii) build public and investor confidence around the airline.

3.7 Between December 2012 and February 2013, reports of mismanagement by the acting CEO began to surface. The Board alleged that Mr. Kona was taking business decisions beyond his delegation of authority and without following due process. Such reports surfaced in the media even before they were formally communicated to the Department. Incidents such as the improper appointment of Lufthansa consultants, the unilateral decision to engage Malaysia on the jet fuel pricing, and breach of procurement and supply chain management processes were some of the allegations levelled by the Board against the acting CEO.

3.8 At all times the Department encouraged the Board to observe the governance structures and take responsibility for the decisions that were within its powers. This

meant holding the Acting CEO accountable for his actions. After several unsuccessful mediation attempts, the Board placed Mr. Kona on suspension as acting CEO pending an investigation. After consultations with the Department, the Board appointed the CEO of Mango Airlines, Mr. Nico Bezuidenhout as Acting CEO.

3.9 Yet again, this appointment came with its own challenges. It later emerged in the media that Mr. Bezuidenhout had misrepresented his qualifications in the company's annual reports. Further, there appeared to be no support for Government transformation objectives within his portfolio and his overall knowledge of the SAA Group was limited. The Department viewed this appointment as an interim measure and urged the Board to stay focused on its mandate.

3.10 With the investigation into the allegations of the acting CEO complete, the Board took a decision to remove Mr. Kona as acting CEO. Mr Kona was formally discharged from his duties as acting CEO. Consequently, the Minister was faced with a decision as to whether Mr. Kona should be retained as NED given that it was the same Board who had placed him on suspension. The fact that there was a complete breakdown in the relationship between him and the Board was a major factor. The Department took the decision to remove Mr. Kona as Chairperson and NED of the Board based on Section 71 of the Companies Act, 2008. This advice was based on a previous opinion sought from senior counsel on a similar matter.

3.11 Subsequent to his removal as both Acting CEO and Chairperson, Mr. Kona held the view that only selected members of the Board wanted him removed. Mr. Kona has since challenged both the airline on his removal as acting CEO and the Department for his removal as Chairperson of the Board.

3.12 However, the evidence of factions amongst the Board members had really begun to surface during the process of developing the LTTS. The Department began to see signs of a dysfunctional relationship and a split between the old and new members of the Board.

3.13 As indicated in paragraph 6 above, these challenges were picked up by Parliament and the Department and the Board were invited by SCOPA in May 2013 to give an account of the airline's performance.

3.14 Despite this challenge, the Board managed to deliver on both the LTTS (April 2013) and the appointment of a new CEO (May 2013), which saw the appointment of Mr. Monwabisi Kalawe as the new CEO.

3.15 In June 2013, Ms. Myeni was appointed Chairperson of the Board. The fact that Cabinet had already approved Ms. Myeni's appointment to the Board allowed for the Minister to make the appointment in consultation with the President. The Department intended to formally brief Cabinet on the appointment of Ms. Myeni as Chairperson when additional appointments, to fill the vacancies on the Board, were dealt with.

3.16 In preparing for the AGM scheduled for September 2013, it surfaced that the auditors were again hesitant to sign off on the financials given the going-concern issues. The Department needed to consult with National Treasury on the conditions as well as the tenure of the guarantee. Due to the protracted discussions with Treasury, the AGM scheduled for September 2013 had to be postponed to January 2014. This meant that the Minister was again non-compliant with PFMA requirements and had to inform Parliament of the challenges facing the airline, thereby requesting an extension to table the SAA 2013 Annual Report at the end of January 2014.

3.17 Tensions amongst the Board members and between the Board and Management continued to increase and many of these challenges found their way into the media. These include allegations of investigations by private companies by one member of the Board into the personal affairs of other members of the Board. In February 2014, a member of the Board, Adv. Lindi Nkosi-Thomas resigned citing irregularities in the airline. However, prior to this resignation, the Public Protector was approached by an SAA employee to investigate a legal opinion that was "edited" significantly by the same Adv. Nkosi-Thomas.

3.18 Recently the Department has learned through the media (Beeld newspaper) that the Chairperson approached the Auditor-General to investigate the affairs of the airline. Other challenges continue to surface including, but not limited to, the fact that the CEO has not yet concluded a performance agreement with the Board or undergone a performance review assessment; the absence of the Chairperson at Board meetings and that significant decisions (Airbus fleet transaction and Request for Proposals (RFP) for the wide-body aircraft) were not taken through due process.

06

3.19 Apart from their negative airing in the media, these issues are compounded by the fact that private investigators and other organs of State are being requested to intervene to the total disregard of the Shareholder and outside of prescribed governance structures. On a daily basis SAA tends to make headlines in the media regarding its affairs. These more recent incidents are expounded upon in detail below:

Investigation Into Allegations of Maladministration and Abuse of Maladministration by the SAA Board of Directors in connection with the Board's Resolution 2013/B03:

3.20 On 24 February 2014, the Minister's office received a letter of resignation addressed to the Minister from the non-executive director of SAA, Advocate L.G Nkosi-Thomas SC, citing her reasons as "an irretrievable breakdown in the professional relationship with some Board colleagues with no reasonable prospect of its resolution". The Minister accepted her resignation in a letter to her, dated 11 March 2014. (**Annexure "A"** and **"B"**)

3.21 In her letter Adv. Nkosi-Thomas refers to a few examples in support of her contention, namely allegations of an altered legal opinion (for which she was primarily responsible); allegations that the CEO insinuated that she should resign from the Board; that the Board operated outside of its mandate relating to a Board Evaluation Report by the Institute of Directors, and an allegation by the Board that she commissioned an unauthorised investigation into the affairs of certain members of the Board. It is clearly evident from these facts, that the relationship between the Board members was strained and that there were issues of discord and mistrust amongst members.

3.22 The actions taken by Advocate Nkosi-Thomas pertain to the amendment of a legal opinion following a Board Resolution 2013/B03 taken on 15 December 2012 in a special meeting to terminate the contracts of three employers. (**Annexure "D"**.) The Acting Chairperson at the time, Ms. Myeni, requested a legal opinion from the Acting General Manager for legal services, Ms. Fikile Thabethe, with a view to clarify the consequences of the termination. Ms Thabethe's legal opinion dated 21 December 2012, advised among other things, that the Board consider initiating a forensic investigation on the manner in which the employee had been appointed, and requested the company secretary to circulate the opinion to the Board. In February 2013 it came to light that a different legal opinion had in fact been circulated to the Board by Adv. Nkosi-Thomas on 9 January 2013, and that this opinion differed substantially from the original legal opinion provided by Ms Thabethe, in that the advice provided had been

altered by Adv. Nkosi-Thomas to reflect a different opinion as well as entire paragraphs of the opinion having been deleted.

3.23 One of the employees, whose contract had been terminated, lodged a complaint with the Office of the Public Protector citing allegations of maladministration and abuse of authority by the SAA Board in connection with the above-mentioned resolution. A letter drafted to the then Acting Chairperson, Ms. Myeni, informing her of these allegations and that an investigation of these matters would be undertaken, is attached as **Annexure "J"**. In the letter to Ms. Myeni, other matters for investigation include whether the legal opinion altered by Adv. Nkosi-Thomas amounts to maladministration, improper conduct and the abuse of power, as well as whether the amended legal opinion submitted to the Board by Adv. Nkosi-Thomas amounts to maladministration, improper conduct and an abuse of power by her. Further to the investigation is the issue of whether the Board's decision to terminate the contracts of the employees in question without an opinion from SAA's legal division amounts to maladministration and improper conduct.

3.24 Equally concerning is the matter of the allegation of private investigation of Board members, which has also arisen out of action taken by Adv. Nkosi-Thomas, and which was brought to the attention of the Minister by means of a letter from another non-executive director, Ms. N. Kubeka, dated 07 April 2014 (**Annexure "C"**). A resolution was taken by the Board on Monday, 10 March 2014, (**Annexure "J"**) whereby the Board intended to inform the Minister of three of its Board members who were being privately investigated by an external firm of investigators, of which Adv. Nkosi-Thomas was the initiator of same.

3.25 The Board Charter of SAA requires all members to "act in a professional manner with due regard to their fiduciary duties and responsibilities and that its members should "ensure ethical behaviour..." The Charter expects Board members to strictly observe the provisions of the Statutes applicable to the use and confidentiality of Company information and provides that a procedure will be agreed by the Board for the furtherance of their duties to take independent professional advice if necessary. King III principles further provide that Directors or the Board should be permitted to take independent advice in connection with their duties following an agreed procedure.

Concerns Raised by the Chairperson of SAA and Conduct Related Thereto:

3.26 On 6 May 2014, the Minister was provided with a copy of a memorandum addressed from the Chairperson, Ms. Myeni, to the Board, tabling her concerns and citing among other issues, various allegations of misconduct by the CEO, as well as challenges experienced within the Board (**Annexure "E"**). In seeking advice from the internal Legal Unit, the Minister has expressed serious concerns about the manner in which the Chairperson has dealt with these allegations.

3.27 Ms. Myeni concedes that the Board of SAA has been "wracked by internal discord and that valuable Board time was taken in dealing with inter-personal matters which have both distracted the Board and marginalised opinion and left critical oversight, governance and risk matters without proper scrutiny". This, in essence, is the purpose for the Board's existence, vis-a-vis the Company.

3.28 On the matter of the financial status of the Company, Ms Myeni highlights the poor, extreme and deteriorating financial distress that the Company is in, and that this is exacerbated by the Board and its sub-committees failing to take concerted action to address the "imminent and material risk (sic) of solvency and liquidity of the Company, as well as the Ministers of Finance and Public Enterprises not providing a purposeful response to same."

3.29 In the memo, Ms. Myeni proposes that the affairs of the Company be subject to a comprehensive review by an independent body. She goes further to propose that the Board be required to address the fundamental issues of the Company's financial position more robustly with the Minister, including matters of board governance, namely the "practice of the Board devoting valuable time to matters less material to the Company's survival at the expense of more critical matters". Ms. Myeni also calls into question certain practices by the Company Secretary, namely deletion of audio recordings of minutes of meetings; and not consulting with the Chairperson regarding Board meetings and their agenda, deeming this to be in contravention of the Board Charter.

Senegal Airlines and allegations against the CEO:

3.30 Ms. Myeni alleges in her memorandum that engagements between the Senegalese Government, SAA management and SAX management on the establishment of a West African Hub management were not brought to the attention of the Board when necessary, and that the CEO misrepresented his involvement therein. She further

alleges that the CEO operated outside of the mandate given to him by the Board, which mandate was geared towards establishing a hub in Senegal, thereby alleging that the CEO pursued an unapproved strategy for a period of five months, being the acquisition of an airline, without the Board having any knowledge on progress on the implementation of the actual Board-approved strategy.

South African Express "SAX" Loan:

3.31 In this regard, Ms. Myeni alleges that the loan made by SAA to SAX on the basis of a loan agreement entered into between the two companies, in January 2013, which should have been approved by the Board in accordance with the PFMA, was not done and that management took the decision to enter into an agreement with SAX without seeking or obtaining Board approval.

Baggage Wrapping Contract

3.32 The Chairperson in her memorandum continues her allegations that Management has flouted governance processes in their failure to consult and/or brief and provide the Board with due consideration on major contracts undertaken by the Company, especially given the Company's serious financial position.

Jet Fuel Tender and DHL Anti-Competitive Practice Settlement:

3.33 On this particular matter, Ms. Myeni is concerned that a request by the Chairperson of the Audit and Risk Committee to the CEO on what action would be taken against the Head of Legal is not forthcoming and that such conduct by a senior executive, which she refers to as wilful misleading of the Board, constitutes serious misconduct.

Article in the Beeld: Allegations of Irregularities:

3.34 On 23 May 2014, the Minister's office received four letters from Mr. B. Mpondo, non-executive director of the SAA Board, addressed to the Minister, the Auditor General of South Africa, the Head of the Special Investigations Unit and the Chairperson of SAA, respectively. These letters were written on behalf of the Board of SAA in accordance with a resolution passed at its special meeting on 21 May 2014. The letters relate to an Article in the Beeld Newspaper on Tuesday, 20 May, 2014 wherein a statement was made that the Chairperson of SAA requested the AG to conduct an investigation on the

CEO, Mr. Kalawe. Mr Mpondo states that the Board is not opposed to any investigation which may be carried out, but clarifies that the Board did not take the decision that Mr. Kalawe or SAA be investigated. It is also apparent from the letter by Mr. Mpondo to the Special Investigations Unit, that the Board is uncertain as to whether the Chair of the Audit and Risk Committee has approached the SIU to conduct any investigations on SAA or its CEO.

3.35 In our view, the above issues are clearly indicative of a completely dysfunctional Board and a tenuous relationship between the Board and the CEO. As we prepare for the upcoming 2014 AGM scheduled for 26 September, it may be difficult for the airline to focus on the achievement of the LTTS, given the fact that the Board is plagued by governance challenges of this magnitude and seem to be unable to rise above them. Of grave concern is that these challenges raise questions about the effectiveness of the respective roles of the Chairperson as leader of the Board and the Company and that of the CEO, Mr. Kalawe. The Chairperson has also written to the Minister of Finance requesting intervention (attached as **Annexure "K"**). Media reports indicate that the Chairperson has also written to the Auditor General. However, the Chairperson has not favoured the Department with a copy of this letter.

3.36 The Minister and Department have on numerous occasions (without any success) made attempts to intervene in providing support to the Board and Management in efforts to stabilise the airline and contain the issues. However, matters are at a stage where drastic shareholder action should be considered against directors who are delinquent in fulfilling their duties to the company, as provided for in the Companies Act and corporate governance disciplines.

3.37 The situation has become near irreversible by the Chairperson's recent instruction to suspend all Board activities pending her meeting with the Minister. The instruction will serve to aggravate matters. In response, the Board has taken a decision to defy the Chairperson's instruction and has continued with its meetings, subsequently passing a number of resolutions, which she is now challenging. In considering Minister's intervention, it is important to highlight the following legal and governance requirements:

(a) SAA is governed by a number of legal frameworks and instruments, namely the Companies Act, its Memorandum of Incorporation (Articles of Association), the PFMA, the SAA Act as well as the Board Charter

which provides a Code of Good Conduct and procedures for Board activities, not forgetting the King III Report. These instruments allow for the board meetings to be convened with or without the presence of the Chairperson.

(b) Board Members have fiduciary duties (duty of care and skill) to act in the best interests of the company and are held accountable individually and collectively for decisions of the company. The role of the Chairperson is in this regard, not distinct from other members and she has no veto powers. The reason for this is to ensure that all Board matters are decided by a majority consensus and, where members are unable to agree on a particular issue, such an issue must be put to a vote (either by a show of hands or through a secret ballot).

(c) The Board must be able to appreciate the delineation between the company activities and those of its shareholder. Thus, a change in shareholder representation does not automatically affect the daily operations of the company and is not a trigger for the suspension of Board meetings. The company should still be able to operate despite the fact that a new Minister has been appointed.

3.38 Therefore, the suspension of the Board activities by the Chairperson creates further risks for SAA and can be challenged by other Board members on the grounds that such an action is:

(i) A unilateral decision by the Chairperson not taken in the best interests of the airline, and

(ii) It amounts to a decision to usurp their powers to participate in SAA activities.

3.39 It is a legal and governance tenet that all company decisions must be tabled for full discussion at a properly constituted Board meeting irrespective of whether such decisions are supported by the Chairperson or not. This is not being consistently applied in the instance of SAA. Further, any derelict or delinquent director who disrupts Board activities should be dealt with in accordance with the provisions of the Companies Act (Sections 71 and 162) as well as the Board Charter. However, invoking these provisions should be considered as a remedy or last resort. The Minister has

since occupying her new office, engaged with the Chairperson and the Board to impress upon them the importance of showing leadership and to withdraw her instruction to suspend Board activities until such time that the Minister has been afforded an opportunity to be appraised of all challenges facing SAA.

3.40 The attached advice to the former Minister in the form of a brief, attached as **Annexure "L"**, addresses certain steps to be taken to deal with the leadership crisis.

3.41 In addition, the Department has commissioned a legal opinion (attached as **Annexure "M"**) by Advocate NGD Maritz, SC. Advocate Maritz was requested to provide a legal opinion on the following issues:

(a) Legal risks that the Minister faces if the lenders of SAA call SAA to repay loans advanced and whether there has been an event of default that will entitle the lenders to claim immediate repayment?

(b) Whether the Minister can remove all directors in terms of section 71 of the Companies Act and whether such action is an administrative action in terms of Promotion of Administrative Justice Act 2000 ("PAJA")?

(c) Will the removal of directors constitute a breach of contract and will it entitle them to be remunerated for the three year term period?

(d) What are the remedies with regard to concerns about the performance of the Chief Executive Officer and the fact that he allegedly refused to subject himself to a performance assessment?

(e) Whether resolutions taken by the Board in the absence of the Chairperson of the Board are valid?

(f) Is it acceptable for the Minister of Finance to sign and approve the Shareholders Compact of SAA and can the Minister of Finance take over the management of SAA?

3.42 The legal opinion makes the following conclusions:

(a) Legal risks facing the Minister relating to repayment of loans and whether there is an event of default?

The loan agreement between SAA and Nedbank states that the event of default takes place when SAA is placed in final liquidation. SAA is not in default as it has not failed to fulfil its obligations to Nedbank and Nedbank will not be entitled to cancel the loan agreement and call for repayment of the loan. SAA has also not been placed on final liquidation.

With regard to FirstRand Bank and Investec Bank, the loan agreement provides that there will be an event of default if there is a material adverse effect. Material adverse effect means an event or circumstance which may have a material adverse effect on the business, operations, financial condition or prospects of SAA which will make SAA not able to perform its obligations arising from the loan agreement. The fact that there are disputes and conflicts at the SAA Board does not constitute a material adverse effect as contemplated in the loan agreement. Should SAA not be able to make repayment on the loan, National Treasury will be required to make such payment in terms of the guarantee. As a result, it cannot be said that SAA is unable to pay its debts and it is unlikely that a creditor can apply for liquidation of SAA.

The Companies Act makes provision for placing a company under business rescue. Business rescue is a process aimed at appointing a business rescue practitioner to supervise and manage the company's business affairs, the development and implementation of a plan to rescue the company by restructuring its affairs in a manner that will maximise the likelihood of the company continuing in existence on a solvent basis. Business rescue can be done (i) if the court is satisfied that the company is financially distressed, which means that it is reasonably unlikely that the company will be able to pay all of its debts as they become due and payable within 6 months or (ii) that it is just and equitable to do so for financial reasons and there is no reasonable prospect of rescuing the company.

In terms of section 13 of the Companies Act, a shareholder or creditor of the company, any registered trade union representing employees of the company or employees not represented by a trade union may apply for an order placing the company under supervision and commencing business recue proceedings.

The legal opinion concludes that given the fact that SAA's major liabilities are Government guaranteed, there is no material risk that a creditor or a trade union can successfully obtain an order for business rescue. However, Government as a creditor of SAA can obtain a court order placing SAA under business rescue.

The Department does not recommend that SAA be placed under business rescue as the management of the Company will be conducted by the business rescue practitioner and Government will not have control over SAA.

(b) The powers of the Minister to remove all the non-executive directors

The Chief Executive Director and Chief Financial Officer are employees of SAA and if they cease to be employees, they cease to be *ex-officio* members of the Board. *Ex-officio* directors can also be removed by the Board in terms of section 71 (3) of the Companies Act.

The Minister is entitled to remove any elected non-executive director by means of ordinary resolution in terms of section 71 (1) of the Companies Act. The Minister is not obliged to give reasons to the removed director for the decision to remove subject to the Minister granting the director notice of the meeting, the proposed resolution and that the director must be afforded an opportunity to make a presentation in person or through a representative at the Shareholders meeting. However, non-executive directors are entitled to apply to court for damages or other compensation for loss of office as a director. The removal in terms of section 71 is not an administrative action and cannot be subject to judicial review as the Minister acts in her capacity as shareholder.

The Department recommends that given the governance challenges at the Board of SAA, the Minister should consider removing some members of the SAA Board. It is important to note that the Minister has the discretion to remove the members of the Board in terms of section 71 without giving them reasons. The Minister can also rotate non-executive directors whose 3 year term comes to an end in September 2014 during the SAA's Annual General Meeting.
The Board may take a resolution to remove a director, if the director is ineligible, incapacitated to the extent that the director is not able to perform their function as a director, or the director was negligent or derelict. The director

must be given a notice of the meeting, copy of the relevant resolution accompanied by statement of reasons for the resolution which is detailed enough to prepare and present a response before a resolution is put to a vote. The director removed by the Board may apply within 20 days of the decision, to Court, to review the removal.

The legal opinion suggests that the Memorandum of Incorporation should be amended to indicate that non-executive directors are appointed by the Minister and may be removed by notice given to them by the Minister. It further recommends that the letter of appointment of non-executive directors must state that the directors serve at the will of the Shareholder Minister and that in the event of termination of the appointment, the removed director will not be entitled to any compensation or remuneration for any period after the date of termination. The department welcomes the suggestions and will make the necessary amendments.

(c) Does the removal of directors constitute a breach of contract and will it entitle them to be remunerated for the three year term period?

A person who is appointed as a non-executive director of SAA does not become an employee of SAA but is appointed for a 3 year term. The right of remuneration will cease when the person ceases to be a director. The director will be contractually entitled to serve and be remunerated for the 3 year term that he or she was appointed to serve. The fact that the appointment letter indicates that the appointment is subject to an annual review does not mean that the appointment is for a year and not for a 3 year term. The annual review is meant to afford the Minister an opportunity to cancel the contract and pass a resolution to remove the director if the director is in material breach of contract. If there are grounds for cancellation of contract, the removed director will not be entitled to compensation. However, should the Minister remove a director (in terms of section 71 (1) of the Companies Act) who has not committed a material breach of the contract, the removed director is entitled to compensation for the financial benefits the director would have received during the unexpired portion of the director's term of office.

(d) Whether resolutions taken by the Board in the absence of the Chairperson of the Board are valid?

The Chairperson of the Board is not entitled to decide that the Board of Directors may not meet without her consent or without her being present. Section 73 (1) 0f the Companies Act provides that a director may call a meeting of a Board at any time and must call a meeting if required to do so by at least 25% of the directors. Article 27.1.1 of SAA's Memorandum of Incorporation entitles any director to convene or request the Company Secretary to convene a meeting of the Board. The quorum necessary for the transaction of the business of the Board is at least one half of the directors provided that such quorum shall always include a majority of non-executive directors. The resolutions passed by the Board are valid and binding if there was a quorum even if the Chairperson of the Board is not present.

(d) Legal remedies relating to concerns with performance of the Chief Executive Officer

The CEO cannot be removed by the Minister in terms of section 71 (1) of the Companies Act as he has a contract of employment with SAA. SAA will have to terminate the contract of employment, which will result in the termination of the CEO as an *ex officio* member of the Board.

Advocate Maritz advised that there are probably good grounds for the removal of the Chief Executive Officer from office by the Board, as a director in terms of section 71 (3) of the Companies Act and termination of his contract of employment as CEO. The refusal to submit to the evaluation of his performance is in accordance with criteria determined by the Board and the conclusion of material contracts requiring Board approval without obtaining such approval constitutes valid grounds for termination.

The Department is of the view that the Chief Executive Officer should not be removed and that the developed Governance Protocol for the Chairperson and CEO of SAA which provides a clear guideline for the effective and proper management and functioning of governance processes by the Chairperson and CEO be utilised to manage the relationship between the Chief Executive Officer and the Chairperson.

(f) The powers of the Minister of Finance to sign the Shareholder's Compact and to take over management of SAA

Advocate Maritz further advised that it will not be legally competent or permissible for the Minister of Finance to take over the management of SAA as contemplated in the Minister of Finance's letter dated 9 June 2014. Section 66 (1) of the Companies Act provides that the business and affairs of a company must be managed by or under the direction of its Board, which has the authority to exercise any functions of a company. As a result, it will not be permissible for the Government to appoint people to take control of and to conduct the business of SAA. If Government as shareholder of SAA is not satisfied with the manner in which the business and affairs of SAA are conducted by the Board, the remedy is to replace the Board members. The Department advises that section 100 of the Constitution provides that if the provincial executive cannot perform the executive obligation in terms of the Constitution or legislation, the national executive can assume the responsibility for the relevant obligation. It is important to note that this power can only be utilised with regard to provinces and cannot be applied to State Owned Companies. Therefore, there is nothing in law that empowers Government to take over the management of SAA, unless a policy decision is made at Cabinet level to declassify SAA as a Schedule 2 entity and categorise it as a Schedule 3 entity. Government has greater control for Schedule 3 entities, for example, section 7 (1) of the PFMA provides that the National Treasury must prescribe a framework within which public entities listed in Schedule 3 must conduct their cash management. Thus, Government has greater control for a Schedule 3 entity than it has for a Schedule 2 entity.

The legal opinion concludes that there is no reason why the Shareholder's Compact should not be signed by both the Minister of Finance and the Minister of Public Enterprises. The identification of the parties to the Shareholder's Compact is a policy decision at the executive level of government rather than a question of company law.

The Department advises that the PFMA and Treasury regulations do not provide for the joint approval of the Shareholder's Compact by the Minister of Finance. Therefore, the Minister of Finance will be acting *ultra vires* the provisions of the PFMA and Treasury Regulations if he approves the Shareholder's Compact. It is important to note that Treasury Regulation 29.2 provides that the Accounting Authority of a public entity must, in consultation with its Executive Authority, annually conclude a Shareholder's Compact. Treasury Regulation 29.1 stipulates that the corporate plan must include

strategic objectives and outcomes identified and agreed on by the Executive Authority in the Shareholder's Compact. It is clear from the provisions of the Treasury Regulations that the shareholder's compact is agreed between the Minister of Public Enterprises as Executive Authority and the Board of SAA as the Accounting Authority. There is nothing in the Treasury Regulations that empowers the Minister of Finance to conclude or jointly approve the Shareholder's Compact.

However, the Department is of the view that this is an area where the Department can compromise and allow the Minister of Finance to sign the Shareholder's Compact given the financial challenges of SAA which will require the support of the Minister of Finance.

3.43 The Minister has placed the Board members, in particular the Chairperson and CEO, on terms in an attempt to resolve their differences within a period of three months. Should they be unable to resolve the impasse, it remains the Minister's discretion whether to remove all or some of the NEDs in accordance with relevant sections of the Companies Act, e.g. S 71 proceedings.

3.44 In addition, a specific Governance Protocol for the Chairperson and CEO of SAA has been developed on the request of the Minister, to provide a clear guideline for the effective and proper management and functioning of governance processes by the Chairperson and CEO. It is intended to serve as a framework and guideline and is based on the Company's governance compliance framework, namely the PFMA (the principle act), the Company's Articles of Association as adopted on 15 March 2010 (and which constitutes its Memorandum of Incorporation) (statutory), the South African Airways SOC Board Charter and the King III Code of Governance for South Africa 2009 (non-statutory). This framework has become necessary in order to clarify the roles and responsibilities of the Chairperson and CEO in light of the governance challenges experienced by the Company, and is attached as **Annexure "N"**.

3.45 The Board complement is aligned to the strategic mandate and objectives of the Company and includes a wide mix of skills, ranging from aviation, business strategy, legal, economics, planning and policy finance and governance, to name some. The current board composition is attached as **Annexure "O"**. The MOI provides that the Board shall consist of a minimum of 3 (three) and a maximum of 16 (sixteen) directors, with the majority being NEDs and with no less than 2 (two) executive Directors being

the CEO and the CFO. There are currently (5) vacancies on the Board (which includes the most recent resignation of Adv. Nkosi-Thomas with additional skills required in the areas of aviation, strategy and corporate finance. The entire board, with the exception of the two executive directors are due to be rotated on 1 September 2015, which leaves the remaining term of 13 months. The MOI provides that the Shareholder shall appoint the Directors of the Company from time to time and in doing so shall endeavour to ensure that the Board shall be appropriately balanced in terms of executive and non-executive Directors; appointed on the grounds of their knowledge and experience which, when considered collectively, should enable the Board to attain the objects of the Company and when viewed collectively, should possess appropriate skills and experience relevant to the business of the Company. It is therefore the Minister's prerogative to rotate Directors of the Board should these requirements not be met.

3.46 It is recommended that in order to contain the situation, individuals desist from taking interviews and a cohesive communication strategy be agreed between the Minister, the Board and the CEO. These issues should be discussed between the Minister and Deputy Minister to explore the options available to them in dealing with the situation. When required the relevant officials can be drawn into the discussions.

4. FINANCIAL IMPLICATIONS

No financial implications for the Department.

5. CONSULTATION/PROJECT TEAM

Shelley Pather/Orcilla Ruthnam/Matsietsi Mokholo/Denzel Matjila/Melanchton Makobe

6. RECOMMENDATION

It is recommended that the Minister:

6.1 Notes the contents of the memorandum, and

6.2 Approves the memorandum if in agreement with the contents hereof.

GOVERNANCE CHALLENGES FACING THE SOUTH AFRICAN AIRWAYS BOARD OF DIRECTORS

Memorandum prepared by:

SHELLEY PATHER
D: GOVERNANCE
DATE: 30/07/2014

ORCILLA RUTHNAM
CD: GOVERNANCE
DATE: 04/08/2014

REVIEWED AND SUPPORTED:

MELANCHTON MAKOBE
CD:LEGAL
DATE: 30/07/2014

Memo received on 18/08.

KGOMOTSO MODISE
DDG: TRANSPORT
DATE: 19/08/2014

MATSIETSI MOKHOLO
DDG:LGR
DATE: 13/08/2014

MR.TSHEDISO MATONA
DIRECTOR-GENERAL
DATE: 29/8/2014

RECOMMENDED / NOT RECOMMENDED / COMMENTS

MS. LYNNE BROWN, MP
MINISTER
DATE: 16/09/2014

NOTED / COMMENTS

I receive this memo 2 months later! What is the speed with which it has to deal with?
Shelley presented 30/07, Orcilla on 4/8 (ok) this it is downhill

MR. BULELANI GRATITUDE MAGWANISHE, MP
DEPUTY MINISTER
DATE:

NOTED / COMMENTS

BM 56

ANNEXURE "MB16"



SOUTH AFRICAN AIRWAYS

Company Secretary
Suite 2, 6th Floor
Airways Park
1627

Private Bag X13
OR Tambo International Airport
1627

Tel: 27 11 978-6553
Fax: 27 11 978-2545

sandiled lamini@flysaa.com

SOUTH AFRICAN AIRWAYS SOC LIMITED

REGISTRATION NO 1997/022444/30 (the "Company")

NOTICE OF SPECIAL GENERAL MEETING

NOTICE IS HEREBY GIVEN THAT THE SPECIAL GENERAL MEETING OF THE MEMBER OF THE COMPANY WILL BE HELD ON THURSDAY, 23 OCTOBER 2014 AT THE DEPARTMENT OF PUBLIC ENTERPRISES, 4TH FLOOR, INFOTECH BUILDING, 1090 ARCADIA STREET, HATFIELD AT 10h00

Pursuant to section 62(2A) of the Companies Act 71 of 2008 as amended, the Member of the Company is requested to waive the right to receive at least 15 business days' Notice of this Meeting as required in section 62(1)(a) of the Companies Act.

1. To consider presentations to be made, in person or through a representative, by the following directors as provided for in section 71(2)(b) of the Companies Act before the Resolution in 2 below is adopted:

   a) Mr Andile Mabizela

   b) Mr Andile Khumalo

   c) Dr Rajesh Naithani

   d) Ms Carol Roskruge

   e) Mr Bongisizwe Mpondo

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 Roskruge*

*Non-Executive Director

Company Secretary – Sandile Diamini

CONVENTION OF INTO STATE CAPTURE

BM

f) Ms Raisibe Lepule

g) Ms Nonhlanhla Kubeka.

2. To consider the Resolution that the following Directors be removed as Non-Executive Directors from the Board of the Company with effect from 23 October 2014:

a) Mr Andile Mabizela

b) Mr Andile Khumalo

c) Dr Rajesh Naithani

d) Ms Carol Roskruge

e) Mr Bongisizwe Mpondo

f) Ms Raisibe Lepule

g) Ms Nonhlanhla Kubeka.

BY ORDER OF THE MEMBER OF THE COMPANY

SANDILE DLAMINI
Company Secretary
South African Airways SOC Ltd

15 OCTOBER 2014

REGISTERED OFFICE
Suite 5,
Airways Park
Jones Road
KEMPTON PARK

SOUTH AFRICAN AIRWAYS

SOUTH AFRICAN AIRWAYS SOC LIMITED

NOTICE IS HEREBY GIVEN THAT THE SPECIAL GENERAL MEETING OF THE MEMBER OF THE COMPANY WILL BE HELD ON THURSDAY, 23 OCTOBER 2014 AT THE DEPARTMENT OF PUBLIC ENTERPRISES, 4TH FLOOR, INFOTECH BUILDING, 1090 ARCADIA STREET, HATFIELD AT 10H00

AGENDA

ITEM	MATTER	ACTION	RESPONSIBLE PERSON
1.	**WELCOME, APOLOGIES, CONSTITUTION OF THE MEETING AND SIGNING OF THE ATTENDANCE REGISTER**	Noting	CHAIRPERSON
2.	**NOTICE OF THE MEETING**	Noting	MEMBER
3.	**WAIVER OF NOTICE PERIOD: Ordinary Resolution Number 1**	Approval	MEMBER
4.	**REMOVAL OF NON-EXECUTIVE DIRECTORS: Ordinary Resolution Number 2**	Approval	MEMBER
4.1	**PRESENTATIONS BY NON-EXECUTIVE DIRECTORS**		MEMBER
4.2	**RESOLUTION**		
5.	**Closure**		CHAIRPERSON

BY ORDER OF THE MEMBER OF THE COMPANY

SANDILE DLAMINI
COMPANY SECRETARY

REGISTERED OFFICE
AIRWAYS PARK
JONES ROAD
OR TAMBO INTERNATIONAL AIRPORT
KEMPTON PARK
1619

8m V6

ANNEXURE "MB17"



SOUTH AFRICAN AIRWAYS

MINUTES OF THE SPECIAL MEETING OF THE SAA BOARD OF DIRECTORS MEETING NO 2014/08 HELD ON FRIDAY, 19 SEPTEMBER 2014 AT AIRWAYS PARK 6TH FLOOR BOARDROOM AT 12H00

Resolution No / For Attention

Present

Ms R Lepule	Non-Executive Director (Chairperson of the meeting)
Mr B Mpondo	Non-Executive Director
Mr A Khumalo	Non-Executive Director
Ms C Roskruge	Non-Executive Director
Mr M Kalawe	Chief Executive Officer
Ms Y Kwinana	Non-Executive Director
Ms N Kubeka	Non-Executive Director
Dr R Naithani	Non-Executive Director
Mr W Meyer	Chief Financial Officer

Apologies

Ms Myeni	Chairperson of the Board
Mr A Mabizela	Non-Executive Director

In attendance

Mr S Dlamini	Company Secretary
Mr S Maso	Deputy Company Secretary

1. **OPENING, WELCOME, ELECTION OF THE CHAIRPERSON OF THE MEETING**
In the absence of the Chairperson, who had apologised, the Company Secretary opened the meeting and requested the Board to elect a Chairperson of the meeting.

The Board elected Ms R Lepule to chair the meeting.

2. **CONSTITUTION OF THE MEETING AND SIGNING OF ATTENDANCE REGISTER AND EVACUATION PROCEDURE**
The Chairperson welcomed everyone present and declared the meeting properly constituted with the quorum being present and the notice having been duly issued. The attendance register was circulated and signed. The Company Secretary took the Board through the evacuation route and same was noted.

3. **APOLOGIES**
Apologies from Ms D Myeni and Mr A Mabizela were noted.

4. **ADOPTION OF AGENDA**

Resolution No / For Attention

The agenda was adopted without any changes.

5. DECLARATION OF INTERESTS

The Board members declared that they had no personal interests in the matters on the agenda.

6. MATTERS FRO DISCUSSION / CONSIDERATION

6.1 Board Evaluation for the FY2013/14

The Company Secretary reported that the SAA Board Evaluation for 2013/14 was not done as the process initiated by management was stopped by the Chairperson of the Board. Only the Subsidiary Boards undertook their evaluation. Each time the Company Secretary followed up on the matter with the Chairperson, he was told that the Chairperson was in discussion with the Minister and that she would communicate with the Board. As SAA had to say something to the stakeholders through the Integrated Report, management ended up inserting the following paragraph into the draft Integrated Report "*Regarding SAA, it was realised that it would be more beneficial to fully implement the Board evaluation plan developed in respect of the 2012/13 Board evaluation before embarking on another evaluation. It was imperative to do this as some of the interventions and initiatives may not have immediate impact while others will take a while to fully implement. It is further the intention of the Board to engage with IoD on some of the matters.* "This was done without the approval of the Board and in anticipation that it would be accepted by the Board. It was enunciated that the Board had never had a chance to consider this matter.

The Board was requested to consider the proposed paragraph and pronounce on it. Most of the Board members indicated that they would not support the proposed paragraph as they did not agree with the contents and did not approve the decision that the Board Evaluation not be undertaken. Some of the Board members insisted that the truth should be told that it was not done because the Chairperson decided unilaterally to stop the process. Others contended that it would not be a good idea to communicate challenges obtaining within the Board to the public.

After deliberations, the Board **Resolved** that the proposed paragraph be deleted and replaced with the following "*The SAA Board evaluation for the financial year 2013/14 was not done.*" 2014/08/01 CoSec

6.2 Extension of Lease: Wide Body Aircraft

The CFO took the Board through a submission on the extension of lease of 8 of the current leased 340-600 and A340-300 wide body fleet for 6 years.

The Board commented on the submission as follows:
The submission should include a risk register addressing Board's concerns or

Resolution No / For Attention

questions regarding:

- the 6 year term of the lease;
- cost-savings benefit to be derived from the extension;
- timelines for the development of the NIPP Framework; and
- the considerations relating to fleet plan and reconfiguration investment.

An issue regarding maintenance costs in respect of aircraft owned by SAA was raised. It was suggested that the Group CEO, SAAT CEO and CFO should explore ways of reducing maintenance costs in respect of aircraft owned by SAA through use of appropriate (fit for purpose) parts. GCEO

The Board then **RESOLVED** that the submission be referred back to management for them to address the concerns raised by the Board and have it circulated for approval through a round robin process. 2014/08/02

Ms Kwinana registered her support for the submission and indicated that she was happy to approve it. She advised Company Secretariat that if no response was received from her on the round robin, it must be taken that she had approved the submission.

The Chairperson urged Ms Kwinana to respond to the round robin and also impressed upon the Board members to reply expeditiously to the round robin.

6.3 **Financial Situation Assessment Report**

The GM: Legal, Risk and Compliance took the Board through a submission on the above matter. She highlighted that SAA was currently trading under insolvent circumstances and that it was financially distressed in that it might not be able to pay all its debt as they fall due and payable within the immediately ensuing six months.

The GM: LRC proceeded to point out that the continued delays by the Shareholder in responding to applications for a going concern guarantee and recapitalisation of SAA did not help arrest the financial distress. She advised that, given the situation that SAA was in, the Board had a duty to respond in terms of the law. If it did not, it could be accused of reckless trading.

A discussion on this matter ensued. The Board asked a question whether or not SAA was trading recklessly. It was specifically pointed out that SAA was currently meeting its financial obligations as and when they fell due. However, if one looked through the 6 months window, SAA would not be able to meet its financial obligations without the going concern guarantee or the capital injection being provided by the Shareholder.

Resolution No / For Attention

A point was that the Board should proceed with caution on this matter as SAA had all along been relying on the Government guarantees to trade. Therefore, should the applications for the going concern guarantee and recapitalisation of SAA be successful, SAA's situation would change.

In response to a question, the distinction between concepts "reckless trading" and "financial distress" was explained. It was, however, added that failure to respond appropriately to financial distress could result in reckless trading.

The Board further impressed on management to rigorously pursue the internal interventions or initiatives aimed at unlocking cash and optimising working capital. Regarding this particular matter, one of the members enquired if the CEO and CFO had resolved their differences. The CEO advised that the CFO and himself had reached agreement on Inventory and Process Optimisation projects but had not reached an agreement on the asset backed finance initiatives namely: engines, buildings and aircraft owned by SAA.

After further deliberations, the Board **RESOLVED**: 2014/08/03

1. that the Shareholder be engaged and requested to respond to the Board by 26 September 2014 regarding the current application for a going concern guarantee. Should the Shareholder fail to respond and/or decline to provide a going concern guarantee by this date, the Board will have to consider options to take; CEO

2. to approve the sourcing of a strategic equity partner for SAA and the other alternative funding options that were presented to the Minister on 14 August 2014. This would inform the level and timing of state support required in any recapitalisation of SAA, pending the Shareholder's response to the application for recapitalisation. This will include conducting all necessary feasibility work related to identifying a prospective strategic equity partner. Management was requested to submit a pre- notification to the Minister. GM:LRC

3. that a letter be written to the Minister urgently requesting her to advise of the outcome of the applications made by SAA by 26 September 2014. After receipt of the Minister's response, the Board would consider the next step or position to be taken by the Board. GM:LRC

6.4 ATL Guarantee

The CFO explained that this matter was on the agenda to provide the Board with an update on SAA's application for a new ATL Guarantee. He advised that the guarantee had not been issued and that management had proposed that the current guarantee which was due to expire on 30 September 2014 be extended

Resolution No / For Attention

while the Shareholder was considering the application. This proposal by management was dismissed by DPE. The CFO proceeded to report that SAA had since received assurance from DPE that the ATL Guarantee would be signed during the week of the 22nd of September 2014.

The report was noted.

At this juncture, the CFO was recused from the meeting.

The Board proceeded to have an In-Committee meeting.

CHAIRPERSON

Date: 28/05/2015

COMPANY SECRETARY

Date: 28/05/2015

ANNEXURE "MB18"



Mr. Bongisizwe Mpondo
135 Froome Street
1 Willow Stream
Atholl Gardens
Sandton
2196

Ms. Lynne Brown, MP
Minister of Public Enterprises
Private Bag X15
Hatfield
0028

Honourable Minister Brown,

RE: RESIGNATION FROM THE SOUTH AFRICAN BOARD OF DIRECTORS SOC LTD

Recent developments have left me with no choice but to tender my resignation, from my position as a Non-Executive Director of the Board of South African Airways (SAA) SOC Ltd.

During my tenure I have strived to serve the national airline to the best of my abilities, experience and skills. As a passionate South African, I take this step with the comfort that I have fully discharged the duties bestowed upon me by the Shareholder Representative and Cabinet. I am hopeful that the framework we have set through the Long Term Turnaround Strategy (LTTS), will continue to guide our national asset in its turnaround endeavours. I am grateful for the opportunity that I have had over the past 24 months to serve the national airline as well as our beloved South Africa.

I wish SAA all the best in its Gaining Altitude trajectory.

Yours Sincerely,

Bongisizwe Mpondo (Mr.)

COMMISSION OF INQUIRY INTO STATE CAPTURE

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

AFFIDAVIT

I, the undersigned,

ERIC ZAMOKWAKHE MTOLO

do hereby make the following statements under oath:

1. I am an adult male employed by the State Security Agency ("SSA") as an Investigator from 2004 and still occupy the same position to this date.

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. During the period 2011 to 2012, I was reporting to the Acting Manager – Special Operations. However, during the period 2015, I occupied the position of Investigator and acted as Divisional Head – Counter Intelligence and VIP Protection, assigned to the President and Deputy President. During this time, I was reporting to Ms Shireen Sewela

EZ
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("Ms Siwela") and to the then General Manager – Special Operations, Mr Thulani Dlomo ("Mr Dlomo") who subsequently became Deputy Director-General Counter Intelligence.

4. In order to provide some context to the events I set out in this affidavit, I point out that at some stage before July 2015, Mr Dlomo assigned me to a team that was providing security to the then President Jacob Zuma and Deputy President Cyril Ramaphosa.

5. On or about 3 July 2015, Mr Dlomo called me. He asked me to come and see him urgently at the Inter-Continental Hotel located at the OR Tambo International Airport. I immediately drove straight to the airport to meet with him. He did not mention the reason for the meeting.

6. On my arrival at the Inter-Continental Hotel reception, I saw a person I know by the name of Gerald (I don't know his surname). I greeted him and he told me that he was also waiting for Mr Dlomo. I then proceeded to meet with Mr Dlomo inside a meeting room. Gerald did not join us; he remained at the reception area.

7. Upon entering the meeting room, I found Mr Dlomo with Ms Duduzile Myeni ("Ms Myeni") inside the room. Ms Myeni had previously requested that Mr Dlomo and I assist her with tracing of a particular cellphone number belonging to a person she alleged was harassing her and also requested that the matter be investigated.

8. Prior to this meeting, Ms Myeni had been in contact with me, to provide me with the cellphone number of the person that was harassing her. I recall asking her if she reported this matter to the Police. She told me she had done so but I do not know if she ever opened a case.

88 EC

9. Therefore, when I saw Ms Myeni, I thought she was at the meeting in order to brief me further about her harassment claim, or that she wanted to follow up on her request to have the number traced.

10. During the meeting, Mr Dlomo instructed me to speed up the investigation into Ms Myeni's harassment claim. The claim was that someone with the number that Ms Myeni had provided me with was sending threatening SMSes to her and her son. I informed Mr Dlomo that I was still waiting for Ms Myeni to give me a sworn statement regarding this threat. He responded that I must meet Ms Myeni after the meeting to obtain a statement.

11. Mr Dlomo then asked me to take Ms Myeni to the SAA offices in Airways Park, using my car. Ms Myeni informed me that there was an urgent meeting at Airways Park that she needed to go to and that I must take her there. I was then asked to take a seat outside the meeting room, and wait there while Mr Dlomo and Ms Myeni finished their meeting.

12. When I went outside, I saw Gerald again. He informed me that Mr Dlomo had also asked him to take Ms Myeni to Airways Park. We were confused that both of us had been asked to accompany Ms Myeni to Airways Park.

13. When Ms Myeni's meeting ended, she went to my car to be driven to Airways Park and was accompanied by one other person. This person was not in the meeting with Ms Myeni and Mr Dlomo but had apparently been in another meeting at the same hotel. I think the other person was also an SAA Board member.

14. As far as I recall, Gerald followed us with his car to Airways Park.

RS ER

15. When we got to Airways Park, Ms Myeni requested me to accompany them to the building because she wanted to speak to me afterwards. Ms Myeni did not introduce me to the other person, but they went together into the SAA meeting. Gerald and I also entered the building.

16. Ms Myeni went into a meeting room. Gerald and I waited outside the meeting room. A few minutes into the meeting, Ms Myeni came out with a recording pen (i.e. a pen that served as a recording device) and put it on the desk next to where we were seated. I also remember that there were cellphones on the same desk but I cannot recall how they got there.

17. Ms Myeni said she got the pen from one of the members in the meeting. I assumed that the phones also belonged to people who were in the meeting. I was confused as to why these devices were put in front of me. I became concerned that I was expected to take responsibility for the device and the cellphones – which is not part of my job. I told Gerald that he must brief Mr Dlomo and prepare a report about this. I also intended to brief Mr Dlomo in person about the incident.

18. After the meeting, Ms Myeni came back and collected the phones and the pen from the desk. Ms Myeni attempted to give me the recording pen but I refused to take it. I told her to hand it over to Mr Dlomo instead. I do not know what happened to the phones and the pen after that. After the meeting, I asked Ms Myeni to give me a statement about the threat she previously reported. She never provided me with such a statement.

19. After my interaction with Ms Myeni at SAA, I went and met with Mr Dlomo to give him a brief, in person, about the incident with the recording pen and cell phones. From that

RS 32

day, Mr Dlomo no longer involved me in any matters pertaining to Ms Myeni, including the harassment claim. I therefore do not know what eventually happened on this matter but I think Mr Dlomo assigned it to someone else. It was only on this one occasion that I went to the offices of SAA.

20. The Commission Investigators have provided me with certain photographs, which are attached to this affidavit as **Annexure A**. I was advised that these pictures were provided to the Commission by the SAA Security Unit. I confirm that the photographs are of Gerald and me at Airways Park, and that the pictures were taken on the day that I accompanied Ms Myeni to the meeting at SAA.

21. I have never provided protection services to Ms Myeni and I have never had any other dealings with her beyond those referred to above. Mr Dlomo gave Ms Myeni my cellphone number. 2020/10/16

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 GARSFONTEIN on this the 16 day of OCTOBER 2020 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.

SOUTH AFRICAN POLICE SERVICE
GARSFONTEIN
2020 -10- 16
COMMUNITY SERVICE CENTRE
SUID-AFRIKAANSE POLISIEDIENS

2020-10-26 Pretoria SAPS

COMMISSIONER OF OATHS

FULL NAMES: Phetla Rabantseng Sarona

ADDRESS: 277 Jonny Classen Garsfontein

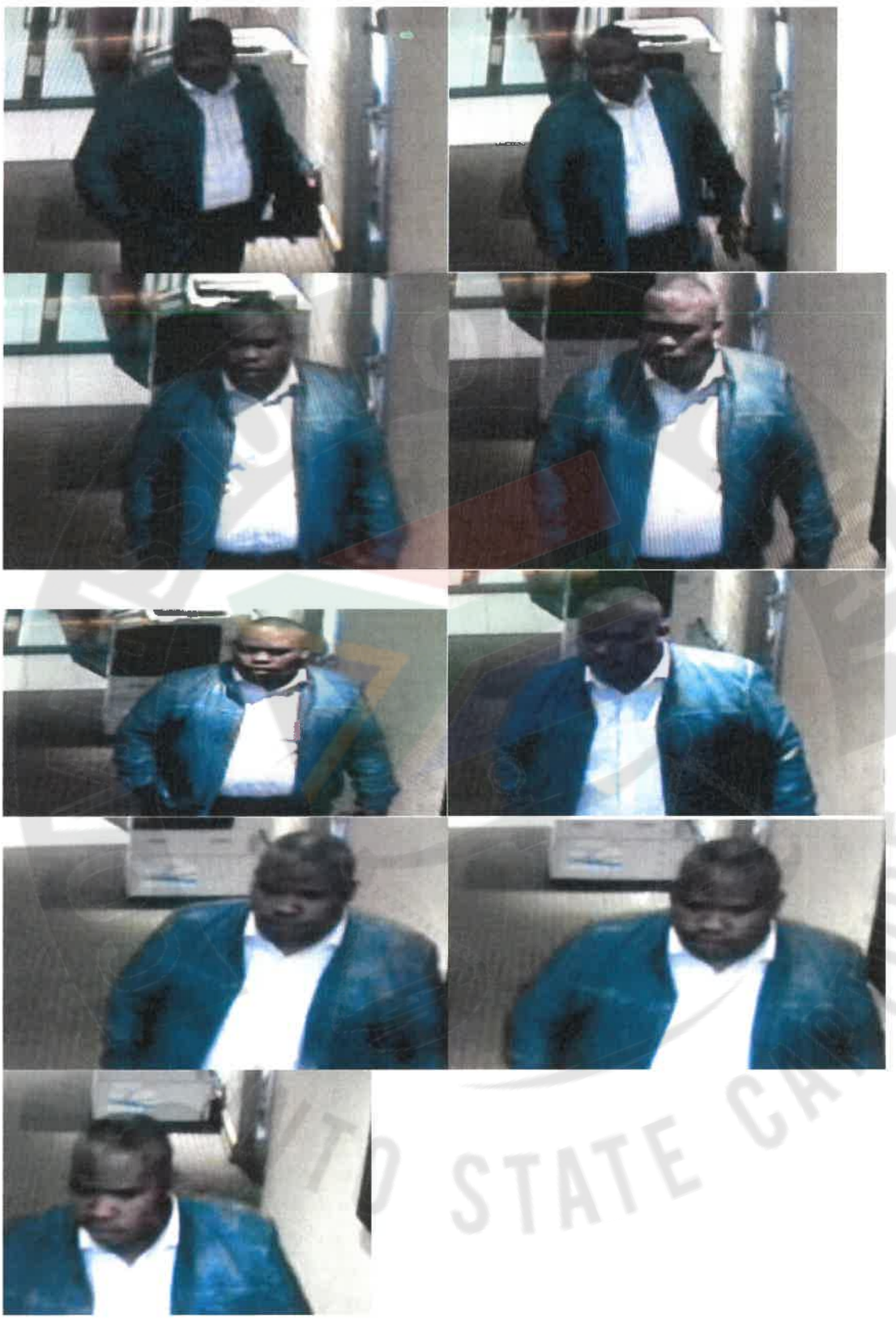
EX OFFICIO: SAPS

RS EZ

SUBJECT: CAMERA :(0066)6th floor A-block door (455)

DATE: 03 July 2015

TIME: 13:14:57



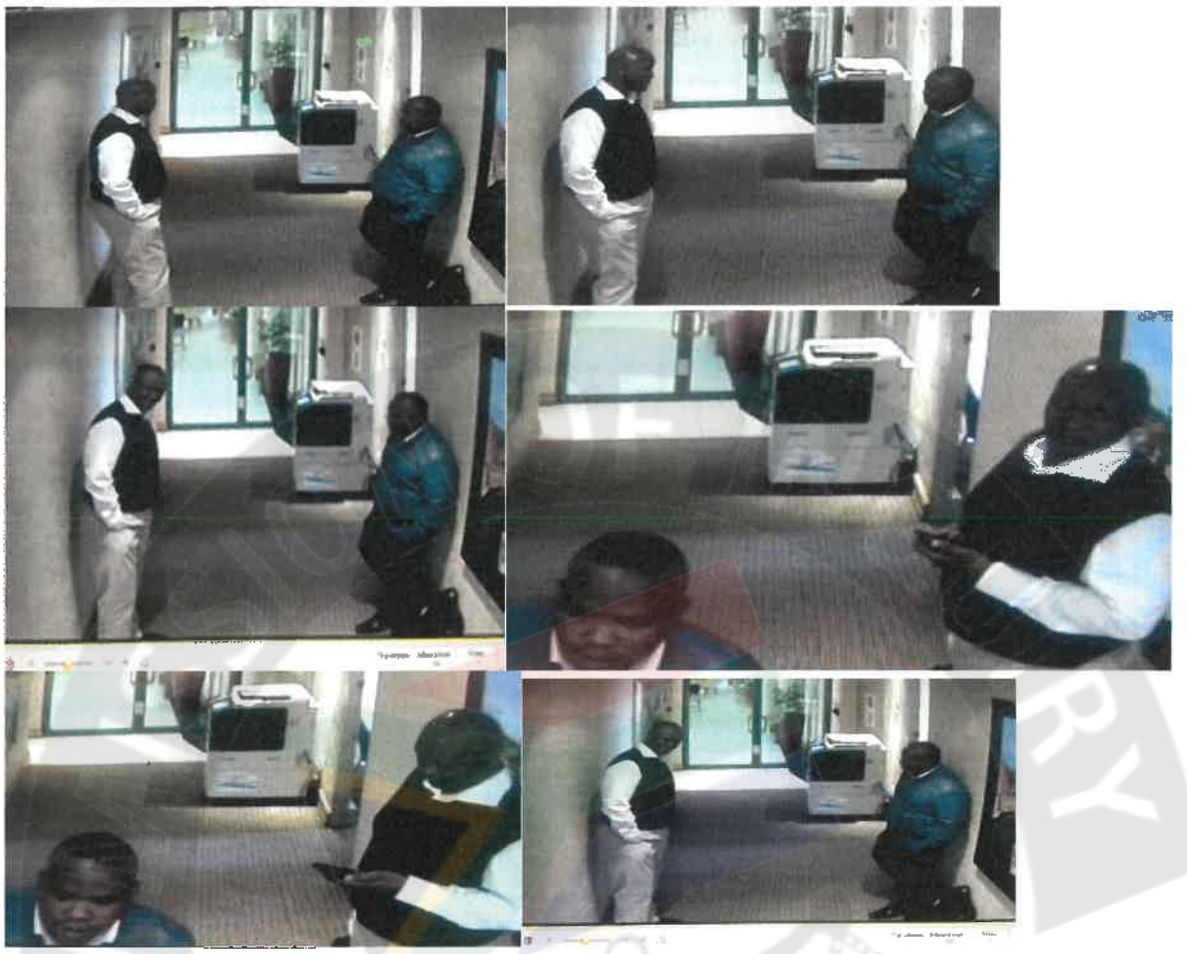
STATE CAPTURE

RS EZ

SUBJECT: CAMERA :(0066)6th floor A-block door (455)

DATE: 03 July 2015

TIME: 13:13:40



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

I, the undersigned,

Lizel Oberholzer

Do hereby state that:

1 I am an attorney of the High Court of South Africa practicing as such at Norton Rose Fulbright South Africa Inc at 9th floor, 117 on Strand, 117 Strand Street, Cape Town.

2 The facts contained in this statement are to the best of my knowledge both true and correct and within my own personal knowledge unless the context indicates otherwise.

3 I have been requested by the Commission to deal with the evidence that Mr Angelo Agrizzi provided to the Commission and in particular paragraphs 57.6 and 57.7 of his affidavit provided to the Commission, where he makes reference to Ms Dudu Myeni co-ordinating a meeting at Nkandla with the then President, Mr Jacob Zuma. The Commission has asked me to confirm or otherwise whether the meeting in question took place, whether there were any other meetings with Mr Zuma and if so, the dates and places of the meetings, who attended the meetings and what the subject matter of the meetings were.

4 As is evident from the contents of my statement, the events that I deal with occurred some years ago. There may be aspects of this statement where I do not recall the exact dates or what was said verbatim at the time, but I set out the events as I remember them to the best of my ability.

Introduction

5 I was previously a director at attorneys Bowman Gilfillan and am now a director at Norton Rose Fulbright South Africa Inc (Norton Rose Fulbright). I left Bowman Gilfillan at the end of July 2014. I joined Norton Rose Fulbright in September 2014.

6 I represented certain clients in the interactions which I will describe in my statement. Whilst I do not believe that anything I say in this statement can be said to be a waiver of attorney and client privilege or attorney and client confidentiality, I do wish to emphasise that I cannot and do not waive any such confidentiality or privilege as may pertain.

7 I believe it would be helpful to the Commission if I were to provide context to the discussions and meetings to which I will refer. It will be noted that they span a fairly lengthy period of time and deal with complex issues of regulations and legislation. I will only deal however with what I consider to be the most important highlights.

8 As I say, the information provided is based on my best recollection of events, taken together with a consideration of such documentation and emails which are still currently available to me and taking into account that

I have only had access to certain of the emails which were generated whilst I was a director at Bowman Gilfillan.

Background

9 At the relevant times, I was retained by a number of clients engaged in oil and gas activities in South Africa, to provide legal advice on matters pertaining to their operations in South Africa.

10 An entity called OPASA (Off-shore Petroleum Association of South Africa) was established at the request of the Petroleum Agency of South Africa (PASA). PASA is the regulator for the upstream petroleum sector. OPASA was established as a forum for discussion of issues effecting the broader industry and for interaction with Government. Its membership included most of the major South African oil and gas companies.

11 ONPASA was established in 2012 as an industry association representing the interests of companies involved in exploration and production of on-shore gas. One of its objects included practical co-operation and liaison with the State on specific issues. Like OPASA in respect of the off-shore industry, it was conceived as a vehicle to advance the common interests of the on-shore petroleum industry. I was appointed Secretary of ONPASA in 2012.

12 In or around February 2014 Mr Phillip O'Quigley, CEO of Falcon Oil & Gas Ltd. which was a client of mine, was elected as the Chairperson of ONPASA. From then onwards my dealings with him encompassed both Falcon and ONPASA business.

13 It should be pointed out that a company's membership in either ONPASA or OPASA did not preclude that company from conducting its own engagements with Government. It is understood that such direct engagements regularly took place.

14 There were two primary legal issues which faced the upstream oil and gas industry at the relevant times:

14.1 The process and attendant obstacles to authorisation of shale gas exploration in the Karoo in terms of the MPRDA (which governs the allocation of exploration and production rights in the upstream oil and gas sectors); and

14.2 The passage of the MPRDA Bill, B15 of 2013.

15 The first process, that is authorisation of shale gas exploration in the Karoo, was subject to a statutory public consultation process which resulted in the Government postponing the authorisation of hydraulic fracturing. A statutory moratorium was gazetted in around 2010 pending the outcome of investigations to be undertaken by a Governmental task team which produced its report in July 2012. That task team recommended that hydraulic fracturing be allowed to proceed but only after regulations had been promulgated to govern the environmental aspects of hydraulic fracturing. This recommendation was adopted by Cabinet and in September 2012 the moratorium was lifted, in respect of pending exploration right applications, subject to the publication of hydraulic fracturing regulations. These were first published in draft form in

October 2013. Comments were submitted. In the meantime applications for exploration rights in respect of shale gas remained suspended. The delay in processing the applications created regulatory complications compounded by the legislative overall of the regime for environmental regulation of mining and petroleum during 2014. In June 2015 final hydraulic fracturing regulations were promulgated by the Minister of Mineral Resources. It is readily apparent from a comparison of the October 2013 and June 2015 versions of the regulations that the second iteration was not revised in favour of the industry. In fact in many respects the June 2015 regulations were more onerous. (These regulations were the subject of subsequent court review proceedings which were pronounced upon by the Supreme Court of Appeal in the matter *Minister of Mineral Resources v Stern & Others and Treasure the Karoo Action Group& Another v Department of Mineral Resources& Others* [2019] ZASCA 99 and were set aside.)

16 The second process involved the MPRDA Bill which was introduced in May 2013 in the National Assembly. The Bill proposed certain highly controversial amendments to the MPRDA. The most contentious provisions of the Bill were:

16.1 A section that had the effect of allocating a 20% "free carried interest" in all existing upstream oil operations to the State. This effectively operated as a tax; and

16.2 The application of the Mining Charter that required a 26% HDSA participation in all production rights.

17 At the time there were various oil major companies that held petroleum rights in South Africa which were represented by the two industry associations I have referred to, ONPASA and OPASA.

18 The industry concluded that the May 2013 Bill would have a significant and grave impact on the financial models for the petroleum right holders in South Africa. It was thought by the industry that the enactment would in all likelihood put an end to upstream oil exploration in South Africa. ONPASA and OPASA and individual petroleum right holders were therefore actively involved in the legislative process. They submitted comments on the Bill and met with the then Minister of Mineral Resources (Ms Susan Shabangu and subsequent Ministers) on several occasions to convey their concerns. They also met on a number of occasions with senior representatives of the DMR.

19 Despite these engagements, the Bill was passed in March 2014 with the contentious provisions unchanged.

20 A legal opinion was obtained from one of South Africa's leading silks on constitutional defects in the Bill. The opinion confirmed that the contentious provisions of the Bill were potentially unconstitutional. The opinion was conveyed to the then Minister of Mineral Resources, Mr Ngoako Ramatlhodi.

21 In or around 19 June 2014 Minister Ramatlhodi issued a public statement confirming that he had advised President Zuma not to sign the Bill into law.

22 Shortly thereafter the Presidency convened a stakeholder workshop in Durban branded "Operation Phakisa" which was directed at "kick-starting the Ocean Economy". The process ran from 7 July 2014 to 15 August 2014. Essentially four areas of potential growth economic impact in the Ocean Economy were identified including oil and gas. The major stakeholders in each area – industry, academia, relevant Government regulators – were invited to attend intensive engagements over a six-week period. This was directed at identifying the obstacles to economic development in a particular sector and formulating solutions. This in turn led to further intensive in-principle negotiations between representatives of the DMR and the upstream oil industry on the legislative terms that would need to be put in place for the upstream oil industry to be able to continue their operations in South Africa.

23 Ultimately on 15 January 2015 President Zuma referred the Bill back to Parliament in terms of Section 79 of the Constitution. The letter of referral was accompanied (or followed) by a memorandum identifying four points of unconstitutionality. Only one of the four points identified by legal advisers in the Presidency coincided with the grounds identified by senior counsel.

24 It is against this background that I describe the meetings in question. In the interim OPASA and ONPASA had made certain legislative proposals to the DMR and engaged the DMR on these proposals. Thereafter protracted negotiations ensued between the industry and the DMR on the relevant legislative terms. Eventually in or around September 2015 a

legislative proposal acceptable to the industry was in place which was conveyed to the then Minister. These were carried out under the auspices of Operation Phakisa and were matters of public knowledge. It was anticipated that the legislative proposal would be independently considered by Parliament.

Meetings

25 My first encounter with Bosasa was at a meeting around February/March 2014 which was held at the Cape Town offices of Bowman Gilfillan. This meeting was initially arranged for the purposes of introducing Mr Aneel Radhakrishna to Mr O'Quigley of Falcon, my client.

26 Mr Radhakrishna was my neighbour with whom I was relatively friendly and with whom I occasionally discussed matters of a professional nature. He conducts a business as a BEE consultant. Bowman Gilfillan also worked with his business previously in regard to a waste to energy project.

27 Mr Radhakrishna had expressed an interest in meeting exploration companies to discuss introductions to potential BEE partners. Mr Radhakrishna brought a representative from Bosasa to the meeting. An informal discussion ensued and Bosasa was introduced as a potential BEE partner. Falcon, together with its partner, Chevron, were considering a number of other HDSA possibilities at the time.

Next meeting

28 The next meeting with BOSASA took place on 22 May 2014 at BOSASA's head office in Krugersdorp. I accompanied Mr O'Quigley. The visit entailed a meeting and a tour of the BOSASA premises. It was attended by me, Mr O'Quigley, Mr Radhakrishna, Mr Gavin Watson, Mr Angelo Agrizzi and various other Bosasa employees whose names I cannot recall. We did not discuss details of any potential transaction but rather were given a general overview of Bosasa's business and their business activities including the fact that they were involved in various renewable energy projects and were extensively engaged in community upliftment and other philanthropic projects. It was made known at the meeting that the exploration operations (and by necessary implication, any potential transaction with Bosasa) could not proceed until the legislative uncertainty precipitated by the Bill (as I have described) had been resolved. Mr Watson informed us that he could arrange a direct audience with the President through his business contact Ms Myeni. We were impressed by this and were inclined to take this opportunity to convey to the President the legal and practical obstacles that the Bill would introduce into the legislative regime. No specific arrangements were made for such a meeting at this stage.

29 After the meeting at BOSASA's offices in Krugersdorp, Mr Watson and Mr Agrizzi transported Mr O'Quigley and me back to the airport. On the way we stopped at a restaurant where we were introduced to Ms Myeni. This was the first time that I met Ms Myeni. It was my understanding that Bosasa did business with South African Airways (of which Ms Myeni was

at the time the Chairperson) and that that was how the parties knew each other. Ms Myeni was informed that Bosasa and Falcon would like to meet with the President to inform him of the problems in the law. Ms Myeni made a very good impression and came across as a professional person. It is my recollection that Mr Radhakrishna was also present at the meeting with Ms Myeni.

30 Whilst Bosasa at the time was considered favourably as a preferred candidate for an HDSA partnership with our client, they were informed that Mr O'Quigley was not in a position to make the ultimate decision in that regard in view of Falcon's co-operation agreement with Chevron. Both Falcon and Chevron also met with a large number of other HDSA companies during the week of 27 October 2014. I may mention that Bosasa appeared on a list of 24 BEE candidates endorsed by Standard Bank at that time.

31 On or about the 13th of November 2014 a further meeting was held with Mr Watson, Mr Radhakrishna and Mr O'Quigley in the offices of Norton Rose Fulbright in Cape Town to discuss the legislative developments.

Meetings with the then President Zuma and his legal advisor

32 I attended meetings with President Zuma (and others) on three occasions. I met with his legal advisor, Mr Michael Hulley, twice. At all these meetings, the main topics of discussion were the Bill and the legislative regime that it introduced, the industry's concerns in this regard and the constitutional defects in the Bill (which pertained to the exercise by the

President of his discretion in terms of Section 79 of the Constitution). My role and function was to explain to the President and his legal advisor the problems created by the legislative regime and the defects in the Bill.

33 I accept that recent revelations suggest that Bosasa was in a corrupt or improper relationship with President Zuma. If indeed there was such a relationship, I was not aware of it. I saw and heard nothing during the meetings which suggested that the meetings were directed at extracting unlawful favours from President Zuma, of influencing him improperly to intervene in the legislative process. There was certainly no discussion or indication whatsoever, at least in my presence, of any improper inducements or rewards.

34 The meetings all took place more than 5 years ago. From what I recall the nature of each of the meetings was as I set out.

Pretoria, 30 May 2014

35 This meeting was held at the President's official residence in Pretoria. It was attended by me, Mr Watson and Ms Myeni (amongst others). I have not been able to find any emails or other correspondence confirming who arranged the meeting but I presume it was arranged through Bosasa and Ms Myeni per the discussion of 22 May 2014.

36 The meeting was a formal one. The discussion in the meeting focused on the problems in respect of the new legislative regime from the perspective of the industry. I explained those problems. At that stage these were considered to be following:

36.1 Increased State participation, that would render existing projects uneconomical;

36.2 Application of the Mining Charter to petroleum right holders, which would require them to transfer a 26% interest in production rights to HDSAs; and

36.3 Absence of stability of terms between the exploration and production phases of a project.

37 It was well known that the industry objected to these aspects of the new proposed regime as this had been extensively reported in the press by that stage. I had also published and spoken at various conferences on this topic.

Nkandla, 27 July 2014

38 On this date a second meeting was held with President Zuma at his home in Nkandla. Present at the meeting with me were Mr O'Quigley, Ms Myeni, Mr Gavin Watson and President Zuma. I understand that Ms Myeni had arranged the meeting with the President. The arrangements were made by email between Mr O'Quigley and Mr Gavin Watson (in which I was copied). The suggestion that I attend this meeting came from Mr O'Quigley via a telephone call. **I attach** marked annexure LO1, an email chain (which was forwarded to me). The email chain starting on 20 July 2014. The email from Ms Myeni to Mr Gavin Watson is dated 20 July 2014 at 11:58:52. It will be noted that Ms Myeni advises that "I'm trying to set up a meeting for the 27th". It is for this reason that I have assumed that Ms Myeni arranged the meeting.

39 My flights were paid for by Bowman Gilfillan as the meeting coincided with a trip to Durban for the purpose of attending Operation Phakisa at the instance of certain clients. My accommodation, however, was paid for by Bosasa. We had to stay overnight as the meeting was scheduled at Nkandla for early the next morning. Bosasa was responsible for making the travel arrangements.

40 Once again I attended a legal industry expert. The topics that were discussed were the following:

40.1 The progress being made at Operation Phakisa with respect to the legislative challenges in the oil and gas sector;

40.2 The constitutional defects that had been identified in the Bill. At this time the legal opinion referred to had already been submitted to Minister Ramathodi.

41 President Zuma, not being a trained lawyer, suggested to me that I should meet with his legal advisor to discuss the constitutional challenges. The meeting of 27 July lasted approximately 30 to 40 minutes where, as I said, I presented as a legal industry expert.

Tuynhuys, at some stage in the second week of November 2014

42 In November 2014 the third meeting with President Zuma took place at his official residence in Tuynhuys in Cape Town. I was requested to attend this meeting on short notice by an individual (whose name I can no longer recall) but who advised me that he was calling on behalf of President

Zuma. I have been unable to find any documents relating to the arrangement for the meeting. In any event, I was told that I was to meet with Ms Myeni at the Vineyard Hotel in Newlands. I did so and we travelled from the hotel to Tuynhuys, albeit in separate vehicles. I travelled in my own vehicle to Tuynhuys following the vehicle in which Ms Myeni travelled. It was my understanding that this meeting resulted from the meeting with President Zuma on 27 July 2014. The meeting was brief and President Zuma only attended for the introduction of me to Mr Hulley. I had a short discussion with Mr Hulley, who indicated that he needed more time to consider the issues, he said that he had limited time and suggested that we meet again at a later date. I estimate that this meeting lasted no more than 10 minutes. Ms Myeni was not present during the discussions with Mr Hulley.

43 Mr Hulley suggested that I meet with him again at the Cape Town International airport on the date of his departure, which from what I can recall, was 19 November 2014, so that we could have an in-depth discussion about what I considered to be the constitutional defects in the bill.

Cape Town international airport, 19 November 2014

44 In accordance with the arrangement made at the earlier Tuynhuys meeting, I met with Mr Hulley at the Cape Town International airport for approximately 40 minutes. Mr O'Quigley accompanied me. The purpose of the meeting was, as I have already indicated to explain to Mr Hulley the contents of senior counsel's opinion regarding the unconstitutionality of the

Bill. A written summary of the issues was requested by Mr Hulley which was subsequently prepared and provided to him. If needs be, a copy of the senior counsel's opinion can be provided to the Commission but I do not wish to unduly burden it at this time.

45 In the event only of the grounds of unconstitutionality that we discussed was cited when the Bill was referred back to Parliament.

General

46 For the sake of completeness I point out that as it transpired, no transaction was entered into between Falcon and Bosasa as the negotiations did not proceed to that point.

Deponent

I certify that the deponent has acknowledged that the deponent knows and understands the contents of this affidavit which was signed and sworn to before me on this 22nd day of October 2020 and that the provisions of regulation R1258 of 21 July 1972 have been complied with.

ELKE LINDI HERBST
Commissioner of Oaths/Kommissaris van Ede
Practising Attorney R.S.A. / Praktiserende Prokureur
Bisset Boehmke McBlain
3rd Floor
45 Buitengracht Street
CAPE TOWN / KAAPSTAD

Commissioner of Oaths

Full Name:

Address:

From: Philip O'Quigley <poquigley@falconoilandgas.com>
Sent: 20 July 2014 20:06
To: Gavin Watson
Cc: Angelo Agrizzi; Roth Watson; Lizel Oberholzer
Subject: Re: ADDRESS BY PRESIDENT JACOB ZUMA AT THE LAUNCH OF OPERATION PHAKISA BIG FAST RESULTS IMPLEMENTATION METHODOLOGY

So hopefully we are set for the meeting to take place on the 27th. I am booked on a flight to LHR on the 24th but will change as soon as you confirm the meeting is going ahead. Kind regards Philip

Philip O'Quigley
Chief Executive Officer ¦**FALCON OIL & GAS LTD.**
5th Floor, Styne House, Upper Hatch Street, Dublin 2, Ireland
Office: +353 1 417 1900 ¦ Mobile: +353 87 814 7042
email:poquigley@falconoilandgas.com ¦ website:www.falconoilandgas.com

On 20 Jul 2014, at 16:11, "Gavin Watson" <gavinjwatson777@gmail.com> wrote:

> Please see the email I received and who attended the meeting we can discuss this further when we meet again.
>
> Regards,
>
> Gavin Watson
>
> Begin forwarded message:
>
> > **From:** Dudu M <dudumyeni@telkomsa.net>
> > **Date:** 20 July 2014 at 11:58:52 AM SAST
> > **Subject: Fwd: ADDRESS BY PRESIDENT JACOB ZUMA AT THE LAUNCH OF OPERATION PHAKISA BIG FAST RESULTS IMPLEMENTATION METHODOLOGY**
> >
> > For my Nkokheli
> > I hope you are well. By Gods grace we are all well.
> > I had to get this speech of the launch of yesterday's event because I felt you have to know what the event or launch was about.
> > Please be assured all is under control.
> > I am trying to set up a meeting for 27th.
> > Regards
> >
> > > **Subject:** ADDRESS BY PRESIDENT JACOB ZUMA AT THE LAUNCH OF OPERATION PHAKISA BIG FAST RESULTS IMPLEMENTATION METHODOLOGY

ADDRESS BY PRESIDENT JACOB ZUMA AT THE LAUNCH OF OPERATION PHAKISA BIG FAST RESULTS IMPLEMENTATION METHODOLOGY,

INKOSI ALBERT LUTHULI INTERNATIONAL CONVENTION CENTRE,

DURBAN

19 JULY 2014

The Premier of KwaZulu-Natal, Mr Senzo Mchunu,

Minister in the Presidency, Mr Jeff Radebe,
Minister Edna Molewa and all Ministers present,

Deputy Minister in the Presidency, Mr Buti
Manamela and all Deputy Ministers present,

Honourable MECs,

The Mayor of Ethekwini Metropolitan Municipality,
Councillor James Nxumalo,

Senior Government Officials,

Executives from our State-Owned Companies and
Statutory Councils,

Captains of Industry,

Representatives of the Government of Malaysia,

Representatives of Civil Society,

Representatives of Academic Institutions,

Fellow South Africans

Ladies and Gentlemen,

countries where possible, which have done well in implementing policies and programmes.

In August 2013, I undertook a State Visit to Malaysia, during which we observed what the country had achieved within a very short space of time, using the Big Fast Results Methodology.

We expressed an interest in the use of this approach and the Malaysians were ready to provide support.

Operation Phakisa is an adaptation of that Big Fast Results methodology that was first applied by the Malaysian Government very successfully in the delivery of its Economic Transformation Programme and the Government Transformation Programme.

We renamed the Malaysian Big Fast Results approach as Operation Phakisa, to highlight the urgency with which we want to deliver on some of the priorities encompassed in the National Development Plan 2030.

Operation Phakisa will initially be implemented in two sectors, the ocean economy and health, especially clinics.

The first implementation, which is the focus of attention today, is Unlocking the Economic Potential of South Africa's Oceans.

The Oceans project brings together representatives from government, industry, labour, civil society and academia to collaborate in unlocking the economic potential of our oceans.

We chose the ocean economy with good reason. South Africa is uniquely bordered by the ocean on three sides – east, south and west. With the inclusion of Prince Edward and Marion Islands in the southern ocean, the coastline is approximately 3 924 km long.

This vast ocean space is relatively unexplored in terms of its economic potential.

In 2010, the ocean contributed approximately 54 billion rand to South Africa's gross domestic product and accounted for approximately 316 thousand jobs.

An analysis was conducted of nine sectors that comprise South Africa's ocean economy. The ocean has a potential to contribute to the Gross Domestic Product up to one hundred and seventy seven billion rands (R177 billion).

The ocean also has a potential to contribute between eight hundred and one million direct jobs.

These growth levers reflect at least 4 percent annual growth in both Gross Domestic Product contribution and job creation.

Four priority sectors have been selected as new growth areas in the ocean economy, with the objective of growing them and deriving value for the country.

These are:

(a) Marine transport and manufacturing activities, such as coastal shipping, trans-shipment, boat building, repair and refurbishment;

(b) Offshore oil and gas exploration;

(c) Aquaculture and

(d) Marine protection services and ocean governance.

The Operation Phakisa project will focus on these four priority potential growth areas.

A key step in the Operation Phakisa approach is the Delivery Laboratories or intensive work sessions. Multiple stakeholders work full-time in one location for about five weeks. At the end of this period, they deliver complete and signed-off action plans for presentation to the Cabinet.

Delivery Labs create transparency and help to remove bottlenecks and resolve the most critical challenges facing a sector.

Our teams began working here in Durban on the 8th of July and will continue working until 15 August 2014, preparing the action plan for unlocking the potential of the country's oceans.

We are pleased that over 180 delegates from national Government departments; provincial Government departments, civil society, private sector, labour and academia are participating in the oceans component of Operation Phakisa. This includes both full-time and part-time participants.

A lot of work is being done.

The workstream on Marine Transport and Manufacturing will explore the country's natural

advantage in maritime transport and manufacturing.

South Africa aims to capture the benefits of growing volumes of cargo handling, sea and coastal shipping and supporting transport activities such as storage and warehousing.

In addition, South Africa can utilise its location and expertise to increase its share of the global marine manufacturing market, including ship-building and repair, rig repair and refurbishment or boat-building.

Against this backdrop, the aspiration of this workstream is to grow the marine transport and manufacturing sector over the next 5 years, to increase the contribution to GDP and multiply the number of jobs in South Africa.

The workstream on Offshore Oil and Gas Exploration takes forward issues that government has previously tackled.

Recent developments have included the merging of Mossgas and Soekor to form a new national petroleum company, PetroSA and also the establishment of Petroleum Agency SA, and the introduction of enabling legislation such as the Minerals and Petroleum Resources Development Act, Royalties Act and schedule 10 of the Income Tax Act.

These developments were a major step forward and contributed to increasing South Africa's attractiveness as an investment destination for international oil and gas companies.

The aspiration of this workstream are to further enhance the enabling environment for exploration

of oil and gas wells, resulting in an increased number of exploration wells drilled, while simultaneously maximising the value captured for South Africa.

Mechanisms for achieving this include:

(a) providing an enabling policy and legislative environment;
(b) promoting inclusive economic growth;
(c) addressing the skills gaps and
(d) overcoming infrastructure challenges.

The third workstream focuses on the relatively underdeveloped area of Aquaculture.

South Africa's aquaculture sector has an increasingly important contribution to make globally in food security. Despite its relatively small size, aquaculture in South Africa has shown strong growth of 6.5 percent per annum.

By generating jobs, especially in fish processing and marketing, employment in aquaculture can enhance the economic and social status of individuals in multiple coastal communities.

The aspirations of this workstream include enhancing growth in the sector through increasing the value contribution of all segments across the aquaculture value chain.

The second important focus area is to create jobs and improve participation across the industry in supporting the transformation agenda.

The objective of inclusive economic growth permeates all four workstreams.

The fourth and last workstream namely, Marine Protection Services and Governance, recognises that South Africa needs to continuously balance the economic opportunities which our ocean space affords while maintaining its environmental integrity.

The aspiration of this workstream is to develop an incremental and integrated approach to planning, monitoring and execution of ocean governance and enforcement in the next few years.

This will be achieved by:

(a) Developing an institutional framework for the management of South Africa's ocean space.

(b) The implementation of Marine Spatial Planning of South Africa's oceans,

(c) Improving the protection of South Africa's oceans particularly around critically endangered ecosystems,

(d) Sustaining environmental integrity and also through

(e) Addressing the skills gap.

Ladies and gentlemen

It is still early days for Operation Phakisa on the ocean economy. The teams will devote the next few weeks to further develop these aspirations and ideas, setting ambitious targets and formulating detailed delivery plans for accelerating delivery.

Once the detailed delivery plans have been completed, we will then move into the implementation phase of this Operation Phakisa.

This will involve making public commitments to the implementation plans, coupled with frequent detailed monitoring of progress.

I will be taking a personal interest in monitoring progress with implementation, and will receive regular progress reports from the relevant Ministers, with a view to dealing with any challenges that arise during implementation.

The people of South Africa deserve much better from all of us. Through Operation Phakisa and all our other key strategic interventions to achieve the goals of the National Development Plan, we must work tirelessly to move our country forward and build a better life for all especially the poor and the working class.

The achievement of this noble goal requires all of us to work together - government, private sector, civil society, academia and statutory councils must work together to create the enabling environment.

Ladies and gentlemen,

Compatriots,

I wish our teams well as they continue their work. We look forward to the first results.

Operation Phakisa is here.

It gives me pleasure to launch this important initiative, and I urge all key role players to commit fully to the success of this programme.

I thank you all.

Issued by the Presidency

Pretoria

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dangerous content by **SYNAQ Securemail**,
and is believed to be clean.

COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-1458

AFFIDAVIT

I, Simangele Marcellina Mbatha ID No 8404200867089.

Residing at 12 Aloe Loop Street, 21 Cedar Park, Richards Bay

Work Address Mhlathuze Water, Cnr Battery Bank & South Central Arterial

Phone (W) 035-9021000 Cellphone No 071 9960030

Do hereby declare Under Oath in English as follows:
I make this statement knowing that I will be liable to prosecution if I willingly state in it anything I do not believe to be true.

In my capacity as the Company Secretary of Mhlathuze Water, I wish to confirm that based on the records at our disposal, the Code of Conduct that was furnished to the Commission was applicable to both employees and Board members of MW during the period in question.

I further confirm that to the best of my knowledge, the copy of the Gift Registry that has been furnished to the Commission is a compete record of the gifts declared by employees and Board members over the period from February 2014 to March 2020.

That is all I wish to place on record.

I know and understand the content of this statement.
I have no objection in taking the prescribed oath.
I consider the prescribed oath to be binding on my conscience.

EXHIBIT
FINANCIAL SERVICE
2020 -10- 23
RICHARDS BAY
KWAZULU-NATAL

SIGNATURE OF DEPONENT

I certify the deponent has acknowledge that he/she knows and understand the content of this statement, which was sworn to/affirmed before me and the deponents signature/thumb-print/mark was placed there on in my presence at **RICHARDS BAY** on the 23 day of October 2020

COMMISSIONER OF OATHS

FULL NAME AND SURNAME: Nonwuce Ntuli

RANK : SGT

PLACE : RICHARDS BAY

BUSINESS ADDRESS : SOUTH AFRICAN POLICE SERVICES
01 PREMIUM PROMENADE
CENTRAL BUSINESS DISTRICT
RICHARDS BAY

MHLATHUZE

DOCUMENT TITLE
CODE OF CONDUCT

PURPOSE
To establish a Code of Conduct for Mhlathuze Water.

BRIEF DESCRIPTION OF CHANGE
Code of Conduct

APPROVAL SIGNATURE RECORD

Reviewer Name	Title	Signature	Date
Document Developer and Administrator	Company Secretary		18/3/08
Accepted by EXCO	Chairman		19.03.08
Approved by Board	Chairman		15/05/2008

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1. PREAMBLE

Mhlathuze Water values compliance to the highest standards and standards of behaviour, over and above the requirements of commercial imperatives. Mhlathuze Water is therefore committed to achieving and adhering to the highest standards in all our relationships with our customers, stakeholders, suppliers and the communities we serve, including its employees.

This Code of Conduct is based on socially established principles of behaviour which are not in contravention of any law, are not morally suspect and which are espoused in Mhlathuze Water's values of enthusiasm, honesty, excellence, fairness, accountability and creativity & innovation.

2. OBJECTIVE

Mhlathuze Water has a responsibility to ensure that, as it strives to supply sustainable water and related services, it complies to strict behaviour in all interactions with its employees, customers, stakeholders and the communities it serves in its area of operation. It will demonstrate its commitment to organisational integrity without compromising any of the principles of good behaviour and standards which are emphasised in the King II report on Corporate Governance which prescribes that each organisation must demonstrate its commitment to an established code of ethics by:

(a) Setting acceptable standards of behaviour;
(b) Create guiding principles to support Mhlathuze Water's values which include fairness, equity, moral consistency and certainty;
(c) promoting systems and procedures which introduce, monitor and enforce its code;
(d) Communicating with, advocating and educating all employees regarding the organisations values, standards and compliance procedures;
(e) Providing, monitoring and auditing systems for reporting of unethical or risky behaviour; and
(f) Enforcing appropriate discipline with consistency and responding to offences and preventing re–occurrence of non conforming behaviour.
(g) Demonstrating commitment to and support of the principles of good corporate governance.

3. APPLICATION AND IMPLEMENTATION OF THE CODE

The code is applicable to all Mhlathuze Water Board Members and Employees:

- Board Members;
- Managers; and
- Employees

All employees and board members are the custodians of the Code of Conduct and therefore the responsibility to communicate, implement and monitor compliance with the Code is the duty of all employees, managers, board members, stakeholders, customers and suppliers.

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4. ETHICS AND INTEGRITY

Ethics and integrity refer to standards of behaviour which are based on socially acceptable moral values and norms which involve the ability to distinguish between right and wrong and the commitment to do what is right and refrain from doing what it wrong, which fosters a culture of integrity and accountability. Commercial ethics are defined as observing and honouring the unwritten moral rule of not causing harm to others through unfair and uncompetitive commercial practices.

5. VALUES AND CRITICAL SUCCESS FACTORS

Mhlathuze Water understands and is committed to ensuring that it fosters partnerships with its customers and stakeholders to create a business that will remain sustainable. It will endeavour to achieve this through the institutionalisation of the values and critical success factors which underpin its strategies to enable it to be the preferred water services provider.

6. PRINCIPLES FOR MHLATHUZE WATER'S CODE OF CONDUCT

The underlying basis for Mhlathuze Water's Code of Conduct is underpinned by the Batho Pele "People First" principles which are prescribed in the public sector's Service Delivery Charter and in the millennium goals which the public sector must strive to achieve. Mhlathuze Water will display its unwavering commitment to these principles in all its activities with stakeholders, customers, suppliers and employees.

Mhlathuze Water therefore commits to:

6.1 Provide a safe and stimulating working environment that is conducive to the growth and development of its employees and which is based on the principles of fairness, courteousy and respect and will not tolerate any forms of racial or gender discrimination or sexual harassment;

6.2 Ensuring that its employees are committed, professional, honest, accountable and loyal to Mhlathuze Water in the performance of their duties and that they serve the best interests of the business in the judicious business use of Mhlathuze Water's assets, intellectual property, time and information;

6.3 Acknowledge its obligations as a good corporate citizen and show compassion for the communities it serves by actively and effectively participating in social investment initiatives and demonstrating initiatives which acknowledge and reduce the negative impact that its activities have on the natural environment and to educate and promote these ideals to its customers and suppliers;

6.4 Rigorously advance the principles of, and initiatives related to, Broad Based Black Economic Empowerment and any other economic initiatives which are intended to stimulate economic growth and development and remove inequalities resulting from unfair discrimination;

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6.5 Conducting all its business in compliance within both the spirit and the letter of the applicable legal and regulatory framework and not tolerating any illegal deviations from the law such as bribery, corruption and fraud;

6.6 Acting in such a manner towards its stakeholders, customers, suppliers and employees so as to ensure that it exceed their expectations in providing good quality water and related services in a fair and equitable manner which is cost effective and efficient;

6.7 Manage its customer, stakeholder and supplier relationships in a manner that is deemed to be professional and courteous and not to engage in activities which may compromise its ability to deal with them objectively, such as by accepting gifts or favours which are inappropriate;

6.8 Not use dishonest methods of conducting business to gain a competitive edge over its competitors or any engage in underhanded behaviour to compete for business opportunities;

6.9 Maintain and provide accurate and reliable information to its customers, stakeholders, suppliers and employees which give a true reflection of its business activities in compliance to the requirements of the legal and financial reporting framework, subject to confidentiality and not providing competitors with an unfair advantage,.

7. UNETHICAL BEHAVIOUR

Mhlathuze Water acknowledges that the opportunities for unethical behaviour are immeasurable and cannot all be defined for the purposes of this Code and therefore relies on the sound judgment of its employees, customers, suppliers and stakeholders to ensure that high standards of behaviour are maintained based on good moral principles of right and wrong with sound and consistent judgment and integrity.

In situations where the choices may be ambiguous, the following guidelines must be applied when making a decision namely:

- Is the decision or action legal?
- Does the decision or action comply with Mhlathuze Water's policies and procedures?
- Will this decision or action be consistent with Mhlathuze Water's values and this Code of Ethics?
- Would Mhlathuze Water support the decision without reservation?
- Would the person concerned or Mhlathuze Water be happy for the decision or action to become public knowledge?

If any of these questions elicits the answer ***"NO"*** it is imperative that further advice be sought from a Head of Department or the CEO, or, in the case of board members, the Chairperson, to assist to confirm the correctness of the decision or action.

8. CONFLICTS OF INTEREST

Mhlathuze Water's employees have an overriding duty to act in good faith and in the best interests of Mhlathuze Water.

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8.1 A conflict of interest arises when an employee or board member has a direct or indirect interest that has the potential to interfere with their objectivity in performing their duties in the best interests of Mhlathuze Water;

8.2 An employee or board member should not use their position in Mhlathuze Water to pursue or advance their own interests or the interests of any family member, business associate, legal entity, partnership, friend or any other person to whom that employee owes any obligation or loyalty;

8.3 Employees and board members should not benefit directly or indirectly from any transaction proposed or concluded by Mhlathuze Water where that employee can influence the decision made by Mhlathuze;

8.4 Employees and board members may not personally benefiting from any opportunity which is available to Mhlathuze Water unless Mhlathuze Water has clearly and irrevocably decided against pursuing the opportunity and the opportunity has been made available to the public.

8.5 Employees and board members should not use their position in Mhlathuze Water to solicit clients for the employee's or board member's personal businesses, or any business operated by a family member, business associate, legal entity, partnership, friend or any other person to whom that employee or board member owes any obligation or loyalty;

8.6 Mhlathuze Water and its employees and board members must take all reasonable steps to prevent an actual or potential conflict of interest which could appear to interfere with the employee or board member's judgment in making decisions in Mhlathuze Water's best interest;

8.7 There are several situations which may give rise to a conflict of interest the most common of which are:

- Accepting gifts, favours or kickbacks from suppliers;
- Passing confidential information to competitors or other interested parties;
- Using privileged information inappropriately;
- Influencing Mhlathuze Water to purchase , lease or obtain goods or services from a business owned by an employee or board member's spouse, family member, business associate, legal entity, partnership, friend or any other person to whom that employee or board member owes any obligation or loyalty;
- Encouraging Mhlathuze Water to allocate funds to an institution where the employee, board member or their family member, business associate, legal entity, partnership, friend or any other person to whom that employee or board member owes any obligation or loyalty is employed or has a business interest;
- An employee or board member's participation in a decision to hire or promote a family member, business associate friend or any other person to whom that employee or board member owes any obligation or loyalty

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- Influencing or participating in a decision which will result in financial gain for an employee or board member.

8.8 If such a conflict of interest arises, it must be disclosed to Mhlathuze Water and the employee or board member may only continue to hold such a direct or indirect personal interest with the written approval of the Board.

8.9 No employee of board member may abuse their position to gain an advantage in contravention of duty, including the offering/giving/soliciting or accepting of an inducement or reward for certain improper actions and any improper approach or solicitation, either directly or through a nominee to act in any way which could be to Mhlathuze's disadvantage.

9. DISCLOSURE

9.1 Full disclosure enables all employees and board members to resolve unclear situations and provides an opportunity to dispose of conflicting interests before any difficulty can arise.

9.2 An employee or board member should immediately upon becoming aware of a conflict or potential conflict interest situation, disclose the conflict in writing to their immediate supervisor, or, in the case of board members, to the board. This requirement will be applicable even if the employee or board member becomes aware of the situation after the transaction is complete.

9.3 Where an employee or board member is in doubt about whether a conflict exists, advice should be sought immediately from a Head of Department or the CEO, or, in the case of board members, the Chairperson or Company Secretary.

9.4 An employee or board member must immediately take action to resolve the conflict or dispel any suspicion that may exist.

9.5 If an employee is concerned that another employee is in a conflict of interest situation, the employee should immediately raise the concern with the other employee and request that the conflict be declared. If the employee refuses to declare the conflict, the employee should immediately report the concern to the Head of Department, the CEO or the whistleblower's hotline.

9.6 Where an employee discloses an interest, the employee:

(a) Should not take part in the discussion of the matter or vote on any questions in respect of the matter unless the person to whom the conflict is declares confirms in writing that no conflict exist or the matter is of a trivial nature;

(b) may remain in the room, but shall not take part in the portion of the meeting during which the matter giving rise to the conflict is discussed and must leave the room prior to any vote on the matter giving rise to the conflict, if the meeting is open to the public,;

14.7 Full and immediate disclosure should be seen as an act of good faith in compliance to this Code.

14.8 In order to avoid the connotation of a bribe, employees and board members accepting or extending business courtesies must follow the prescribed guidelines in the fraud prevention policy.

15. DUTY TO REPORT DISHONEST ACTIVITIES

15.1. Employees and board members shall, as speedily as possible, report, expose and address, to management, or in the case of board members, to the board, any dishonest activities within Mhlathuze Water which may come to their attention, or report such dishonest behaviour by using the whistle blowing facility.

15.2. All reasonable suspicions of dishonest activities such as fraud, corruption and any other forms of dishonesty must be reported. The Chief Executive or, in the case of board members, the Chair of the Audit and Finance Committee, will investigate and inform the employee of the outcome of the investigation.

15.3. Employees shall not abuse the Whistle Blowing facility by intentionally making false or unfounded accusations against fellow employees or board members or any other Mhlathuze Water stakeholder, customer or supplier.

16. CORPORATE ASSETS

16.1. Employees and board members shall protect and preserve Mhlathuze Water assets.

16.2. Employees and board members shall report promptly all risk-bearing situations or activities that could harm Mhlathuze Water's assets or its employees.

16.3 Mhlathuze Water requires all employees to obtain approval for the use or sale of its assets. However, an employee shall not purchase an asset if the employee is directly involved in their official capacity in the sale or purchase of the property.

16.4 The provisions for the disposal of assets as set out in the Supply Chain Management Policy will be applicable when disposing of Mhlathuze Water assets.

16.5 Employees and board members shall not use any asset of Mhlathuze Water for personal use without the prior written consent of the CEO, or, in the case of the CEO and board members, by the Chairperson of the Board.

17. EQUITY

17.1. Mhlathuze Water, as the employer, and its employees shall refrain from any form of unfair discrimination.

17.2. Mhlathuze Water, as the employer, and its employees shall desist from any form of nepotism and undue favouritism.

18. RELATIONSHIPS WITH OTHER EMPLOYEES

18.1. Employees and board members must treat one another and conduct themselves with fairness, courtesy, decency and sensitivity at all times.

18.2. Mhlathuze Water and its employees must respect, encourage and support diversity and avoid any unfair discrimination.

18.3. Employees and board members must refrain from spreading false or malicious rumours and gossip about Mhlathuze Water and one another.

19. RELATIONSHIP WITH SUPPLIERS

19.1. Mhlathuze Water and its employees and board members shall accord all suppliers and service providers a fair opportunity to compete for business in terms of the Supply Chain Management Policy and in support of existing Government policies.

19.2. No employee or board member shall engage in any form of collusion or unfair business practice with or by suppliers, customers or stakeholders.

20. RELATIONSHIP WITH CUSTOMERS AND SOCIETY

20.1 Employees and board members shall pay due regard to environmental and safety considerations in and around the workplace, and promptly report any potential environmental or safety risks.

20.2 As a public utility and in order to discharge its duty to its customers, Mhlathuze Water and its employees, shall, within their scope of work and authority:

- market Mhlathuze Water services accurately and disclose all relevant information regarding its products which customers cannot reasonably learn for themselves;
- render services that at least meet the customers' contractual or reasonable expectations;
- ensure compliance with set service quality standards and act promptly on complaints lodged by customers regarding the service;
- treat all customers with respect, sensitivity and courtesy;
- reduce inefficiencies with a view to obtaining the greatest possible savings for the customer.

20.3 As a public utility and in order to discharge its duty to its stakeholders, Mhlathuze Water shall charge its customers a fair price for its services.

21. COMPLIANCE TO THE CODE OF CONDUCT

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Mhlathuze Water will institutionalize its code of ethics through the values which it subscribes to in its strategic compass and will monitor compliance with the Code of Conduct as far as possible through internal and external audits and the Whistle Blowers reports. Mhlathuze Water will create an environment that encourages compliance with the Code of Conduct and will protect those who report unethical practices.

Breaches of the code of conduct will result in disciplinary action being taken in accordance with Mhlathuze Water's Disciplinary Code and Procedures and other related policies. Legal action may also be initiated where there is good cause to believe that there has been a breach of the Code of Conduct. Mhlathuze Water reserves the right to institute control measures that will serve to prevent a re-occurrence of the breach and may terminate any relationships which fail to meet the expectations set out in the code.

22. RESPONSIBILITIES

POSITION TITLE	TASK DESCRIPTION
Board	Approve the charter
HR & Remuneration Committee	Recommend the charter to Board
Document Owner	Develop, revise & enforce this charter
Corporate Services Manager	Custodian and Administrator of the charter
Employees & Board	Ensure adherence to the principles of this charter

23. APPENDIX "A"

DECLARATION FORM

DECLARATION FORM

The declaration form is as follows ;

I, ... , employee number ..... acknowledge that I have read and considered the Code of Conduct for employees of Mhlathuze Water and agree to conduct myself in accordance with the Code of Conduct.

_____

(Signature)

REGISTER

DECLARATION OF GIFTS RECEIVED

MHLATHUZE

Date	Received From	Name of Recipient	Description of Gift Received	Value (R)	Signature
25/02/2014	ABSA (DURBAN)	MR S MAKHANYA	Set of pens	abt R200	H.S. Makhanya
13/08/2014	ABSA Durban	Mr S.S. Cumede	Dinner	Abt R250	
19/03/2014	NMC	Mr S. Mathanga	Invitation		H.S. Makhanya
10/06/2014	Gautol Singapore	Mrs. N. Ndlovu	Digital Tablet (returned)	abt R4000	
23/07/2014	MW	Ms Y. Maddon	TOP GEAR TICKETS	R1995.00	
17/12/14	BOSH Manitech	D Zungu	Calendar / Pen / Year Plan	about 150	
2/04/15	ILISO	N. NGEMA	WOOLIES VOUCHER	R1000.00	pp
"	"	NCHONCO	"	"	
16/12/15	NATHOO MBONAMBI ENGINEERS	NOZIPHO MTHOMBU	A4 DIARY & BOX OF CHOCOLATE	± R150	
12/15	Bigen Africa	Ms. Simphiwe Xulu	Small diary	about R150	
15/12/15	Nathoo Mbenkane Engineers	Ms. Simphiwe Xulu	A4 diary & box of chocolate	± R200	
12/15	Africoast Consult Engineers	Ms. Simphiwe Xulu	Chocolate	R50	
14/12/15	MSN Consulting	Ms. Simphiwe Xulu	Body lotion set + Small cake	± R250	
	Icon Construction	Ms. Simphiwe Xulu	Vehicle hand bag + Calendar	± R800	
13/12/19	DLV Consultants	Nangamso Ncukana	Wine & sweets & Diary	± R150-00	
13/12/19	Icon Construction	MP. Dube	7 Calendars and document		
06/01/20	Thuthukani	Irene Chetty	Calendars & Diaries	± R100-00	
07/01/2020	Mhlanga Inc	Manka Myeni	Wine bottle	± R100.00	
07/01/2020	Mhlanga Inc	Nombuyekezo Ntshangase	Wine bottle	± R100	
07/01/2020	Mhlanga Inc	N. Mthethwa	Wine bottle	± R100	
17/01/2020	Duduzile Chilisa	Mhlanga Inc	Wine Bottle	± R100	
17/01/2020	Varena Cuvender	Mhlanga Inc	Wine Bottle	± R100	
22/01/2020	Bonakude	Ayanda Magwangwana	Cup	R35	
"	Bonakude	Nomaswazi Shongwe	Cup and Umbrella	R85	

NN SM

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REGISTER

DECLARATION OF GIFTS RECEIVED

MHLATHUZE

Date	Received From	Name of Recipient	Description of Gift Received	Value (R)	Signature
07/07/2014	Mhlathuze water	Simphiwe Thusi	Top Gear Ticket	R1995	
09/07/2014	Mhlathuze Water	Nkume Sivandu	Top Gear Ticket	R1995	
09/07/14	Mhlathuze Water	Simphiwe Xulu	Top Gear Ticket	R1995	
21/10/14	Bigen Africa	Sibusiso Makhanya	4X Coasters		
			Wine: Personalised by Ernie Els (genuine leather casing)	R600.	
10/12/2014	Icon Construction	Sibusiso Makhanya.	Bonded Binoculars	R480	
10/12/2014	Bigen Africa	Sibusiso Makhanya	Pen & Pen Stand	R120	
12/01/2014	Enforce Safety	Zakhele MAHENJE	Multi-Self Defence	R350.00	
01/07/2015	Bigen Africa	Sihle XABA	Madam Ziyaara tickets x2	R1000 ±	
29/06/2015	SPK	BRIAN S. MABA	Tickets x2	R200	
06/07/2015	NME	JEANNÉ HARICHUREN	Durban July Tickets x2	R600	
06/07/2015	VODACOM	SIBUSISO MAKHANYA	Durban July Tickets x2	R1052	
06/07/2015	NME	SIBUSISO MAKHANYA	Hotel Accomodation x2	R2600	
06/07/2015	ABSA	SIBUSISO MAKHANYA		R4300	
06/07/2015	BIGEN AFRICA	SIBUSISO MAKHANYA	Madam Zinhle Tickets x2	R1200	
06/07/2015	BIGEN AFRICA	JEANNÉ HARICHUREN	Madam Zinhle Tickets x2	R1200	
06/07/2015	VODACOM	ZANELE BUNGWA	Durban July Tickets x2	R1052	
06/09/2015	Nuresa Consul Engineer	Simphiwe Xulu	Durban July Tickets x2	R7200	
3/8/15	Kobie Kruger Investec	Kobie Kruger	Bag (Make-up)	Less than R100	
31/8/15	Sne Dyantyi Cumbole	Sne Cumbole	Bag (Make-up)	Less than R100	
31/8/15	Standard Bank	Sne Cumede.	Networking Dinner	R200	
01/12/15	Scentia Financial Services	Millicent Madida	Umbrella	± R200	

NN SM

DD34-DCM-1470

REGISTER

DECLARATION OF GIFTS RECEIVED

MHLATHUZE

Date	Received From	Name of Recipient	Description of Gift Received	Value (R)	Signature
14/12/15	SIBONILE TRADING	EVENTS COMMITTEE MEMBERS	LUNCH AT LAMATTICE B&B	± R5000,00	
14/12/15	MSW Consulting	S. Mutungwa	Body lotion set + Cake	± R200.00	
15/12/15	MORAR INCORPOR.	M ZUMA	PEN & PENCIL SET	± R200-00	
20/01/16	Thuthukani Chem	I. Chetty/ Phumze S.	Calendar + Spoon Set.	± R200.00.	
20/01/16	2DM.	M. D. Myeni	Notebook + Pen	± R200.00	
02/02/16	Scientia	Mandla Myeni	Golf Shirt	± 400.00	
29/04/16	Exordia (PLC)	Kevin Covender			
08/07/16	Joe Lesejane (UCDSA Lecturer)	Natalie Duminy	Concert Tickets (x2)	R1250.00	
05/10/16	Temso Civils	Maya Gounden	Woolworths Gift Voucher	R500.00	
09/12/2016	SAIRA ENGINEERING	Ceempilo Cele	Sculpture Homme-Perfume	R200.00	
17/01/2017	SME	Mbali Ngwa	JOHNNIE WALKER RED GIFT BOX	170	
17/01/2017	largine Courtney Tweet minolta	Kevin Govender (distributed to staff)	Cooler bags diary	± 200.00	
18/01/2017	Thuthukani Chem	Phume, Irene, Penzi, Anele	Calender, Diary, Journal	± 200-00	
19/01/2017	THOLA Bank	Sne Mabaso	calender, gym bag (Headware)	± 800	
08/02/2017	Thuthukani Chemicals	Ngho Dlelo	MUG, DIARY, Pen, Business cards	+ 350	
21/02/2017	MONDI	M. P. Duze	HB Spotter	± 150	
17/8/2017	ABSA	K. Kruger	Picnic Basket + Goodies	± R1,500	
17/08/2017	ABSA	S. Mabaso	Spa treatment	R300	
11	11	B Mavundla	Spa treatment	R300	
12/12/2017	FOCUS	A. Ntshangase	11	11	
12/12/2017	FOCUS PM	N MTHEMBU	Survival kit Diary/Pen	± R300	
12/12/2017	FOCUS	C. CELE	SURVIVAL KIT / DIARY	± R300	
			SURVIVAL KIT / DIARY	± R300	

NN SM

DD34-DCM-1471

REGISTER

DECLARATION OF GIFTS RECEIVED

MHLATHUZE

Date	Received From	Name of Recipient	Description of Gift Received	Value (R)	Signature
13.12.17	AVIS	YONZI MKHIZA	DESK PAD & POST CALENDER	± 100	
11	GLOBAL ARMATURE	YONZI MKHIZA	TORRORO ROCHER & CALENDER	± 250	
11	BIG RIS	YONZI MKHIZA	BISCUITS & DESK PAD	± 150	
13/12/17	RIS	Andile Myide	Biscuits & Desk Pad	± R200	
13/12/17	Global Armature	Andile Myide	Jack Daniels & Calender	± R350	
13/12/17	A&S Seals	Andile Myide	Calender & Desk pad.	± R150	
13/12/17	Turbo fluid	Andile Myide	Calender	± R100	
13/12/17	Idex	Moya Govinden	Calender & Mug	± 100	
13/12/17	Afirmative Portfolio	Bongakele Nkosi	Chocolate Box	±R60	
14/12/17	Focus Prj. Mngt	N. Mchunu	Survival Kit & Diary	± R350	
15/12/17	Insight	Simphiwe	Car phone Holder	± R200	
18/12/17	Ocean Link	Batana Mthombeni	Whisky Johny Walker Black	± R300	
18/12/17	OCEAN LINK	DAN SUBRAYAN	Whisky Johny walker Red	± R300	
18.12.2017	Ocean Link	Simphiwe Masuku	Whisky Johnny Walker Blue	± 300	
18.12.2017	Icon Construction	Mr. MP Duze	Mug + FLASK and Bag	±R300	
19/12/2017	Dial a tool	Andile Myide	Whisky Johny Walker Red	± 200	
19/12/2017	KZN tools	Andile Myide	Clock	± 200	
11	DLV/Icon	Andile Mkhi	TSHWALA	±200	
20/12/17	DLV	SIYABUSELA MKHIZE	Tshwala	± 200	
20/12/17	DLV	Mthombifuthu Luthuli	TShwala & Chocolate	± 200	
20/12/17	DLV	MP Duze	Whisky Johnnie walker	±R300	
			Gold label & Choc.	-	
21/12/17	Mhlanga Inc	Nokubonga Ndlovu	Reed diffuser	±R300	

NN SM

DD34-DCM-1472

REGISTER

DECLARATION OF GIFTS RECEIVED

MHLATHUZE

Date	Received From	Name of Recipient	Description of Gift Received	Value (R)	Signature
21/12/2017	Mhlanga Inc	Nataliie Duminy	Bath Salts		
21.12.2017	GOVCO Trading	Simphiwe Masuku	Game Voucher	R300	
21.12.2017	GOVCO. TRADING.	DN SUBRAYEN	GAME Voucher	R300.	
21/12/2017	GOVCO TRADING	NKOSISITHANDILE MBATHA	GAME VOUCHER	R300	
18/1/18	Bosch Projects	MR MP Duze	Journal	R100	
26/1/18	Ngubane Auditors	MR MP Duze	Diary	R100	
25/1/18	Investec	Sanelisiwe Mabaso	MUG with biscuits	R50	
29/10/18	RBCT	Siyabonga Mthalo	BALMAIN Pens	R300	
04/12/18	DLV Consultants	Sikabiddla Mkwze	Dairy, Red Label (750ml)	R200	
3/12/18	Bhekephuzulu	Mayor Councilor	box of Chocolate		
			Chocolates,		
			sweets & biscuits,		
			chips, dried fruites	R600.	
			etc.		
18/12/2018	Nako Consultants	SIYA MKHIZE	Bottle of scotch (Glen 12yrs)	R350-00	
18/12/18	HLITA Consultants	SIYA MKHIZE	Cup	R70-00	
20/12/18	Mhlanga Inc	Nokwazi Mya.	Bottle of Wine	R160-00	
20/12/18	Mdledle	Nokwazi Mkwa	Gift Voucher		
21/12/18	Mdledle	Ouduzile Chuliza	Gift voucher		
24/12/18	Mdledle	Mr MP Duze	Gift voucher	R1000.00	
24/12/18	Mdledle Inc	Nechando	Gift Voucher	R1000.00	
24/2/18	Mdledle Inc.	Zonke	Gift Voucher	R1000-00	
11/01/2019	Mdledle Inc.	Mr M. Myeni	Gift Voucher	R1000-00	
14/01/2019	"	Babongile Mnyandu	Gift Vouchers	R1000-00	

DD34-DCM-1473

REGISTER

DECLARATION OF GIFTS RECEIVED

MHLATHUZE WATER

Date	Received From	Name of Recipient	Description of Gift Received	Value (R)	Signature
6/12/18	SIBA ENGINEERING	Colin Zerber	GRANTS LUNCHEON TICKET	R 500.00	
14/01/2018	FOCUS	Babonile Mnyanda	Journal & Headphones	±R 500	
14/01/18	MDLEDLE INC	Mintwy Zuma	GIFT VOUCHER	R1000	
14/01/19	MDLEDLE INC	Vareena Govender	GIFT VOUCHER	R1,000	
Dec 2018	AVIS	Yonela Mkhoba	DESK CALENDAR & CALENDAR	± 200.00	
"	BAY HYDRAULICS	Yonela Mkhoba	BISCUIT BAG		
			WALL CLOCK & DESK CALENDAR	± 200	
"	ABLUM TAP :	Yonela Mkhoba	DESK CALENDAR	± 50	
"	JS ENTERPRISE	Yonela Mkhoba	A7 DIARY, PEN & RULER	± 150	
"	DCLM	Yonela Mkhoba	A5 DIARY	± 100	
"	GLOBAL ARMATURE	Yonela Mkhoba	A7 DIARY	± 100	
"	TURBOFLUID	Yonela Mkhoba	DESK CALENDAR & 250g COOKIES	± 200	
02/12/2019	R15 Vehicle hire	Ronel, Rene, Phumeza	Calendar and Lunch box/ picnic bag	± 350	
05/12/2019	Global Armature Winders	Jacoon Hlatshwayo	Calender and Diary	R100	
13/12/2019	Icon Construction	MP Dube	7 Calenders (2020) and document folder	± R250	
			- Red Label 750ml	± R400	
			- diary 2020 and box of Chocolate		
			gift box of chocolate	R400	
			wine, chips & chocolate		
9/12/2019	Midah Construction	MP Dube			

DD34-DCM-1474

NN SM

REGISTER

DECLARATION OF GIFTS RECEIVED

MHLATHUZE

Date	Received From	Name of Recipient	Description of Gift Received	Value (R)	Signature
07-01-2020	Mhlanga Inc	N. Mchunu	Wine Bottle (750ml)	±R100 —	
"	A-NEW HOTELS	N. Mchunu	Notebook	±R200+	
23/01/2020	Bonakude Consulting	B Mayandu	Diary, pen, power bank and cable charges	±R200	
	Woodford Car Hire	B Mayandu	Diary	±R100	
	Mhlanga Inc	B Mayandu	Wine	± R100	
"	Bonakude Cons.	S Cukhele	Cup	± R35	
03/02/2020	Bonakude Consulting	B Mayandu	Braai kit	±R200	
03/02/2020	Bonakude Consult	M GUMEDE	Braai kit	± R200	
03/02/2020	RIS CAR HIRE	M GUMEDE	LUNCH BAG	± R70	
03/02/20	MEMOTEK.	M GUMEDE	CALENDAR	± R30	
04/03/2020	Bonakube	N Shongwe	Calender		
			Cup	± R390	
			Diary		

NN SM.

STATE CAPTURE COMMISSION

3034139

ABSA

Member of / Lid van
BARCLAYS

ABSA Limited/Beperk Reg No 1986/004794/06 JOHANNESBURG CHEQ PROC UNIT
2014 -12- 08
BULK TOS / 6574
62 - 58 - 05

08 DEC 2014 13:00:02 40-740
CC **********60,000.00

JACOB ZUMA FOUNDATION NPC

REFERENCE NUMBER DONATION-SAS
CCDS CCCC11164

2100 R030,050,000.00

Please ensure that the account number and the transaction amount is correct as Absa Bank Limited cannot be held responsible for errors resulting from incorrect information.

Maak asseblief seker dat die rekeningnommer en die transaksie bedrag korrek is aangesien Absa Bank Beperk nie verantwoordelik gehou kan word vir foute wat uit foutiewe inligting spruit nie.

035783 7895499

Signature/Handtekening

COMMISSION OF INQUIRY INTO STATE CAPTURE

TO BE COMPLETED FOR THIRD PARTY DEPOSITS

Transaction done by/Transaksie gedoen deur (Name/Naam)

Tel no
Tel-no

OFFICE USE/KANTOORGEBRUIK

Identity number
Passport number

Issue date	Authorised number	Authorised by
D D M M C C Y Y		

Signature

(Verified by)

ID Buddy used [Y] [N]

COMMISSION OF INQUIRY INTO STATE CAPTURE

3038145

ABSA

03 NOV 2016 19:24:54 49-7404-5177 036366
CD **********100,000.00

JACOB ZUMA FOUNDATION NPC

REFERENCE NUMBER DONATION TO JZF
0001 000019924

R200: R000,020,000.00 R100: R000,080,000.00

ABSA
Bank Limited/Bpark
Reg. no. 1986/004794/06
JOHANNESBURG CHEQ PROC UNIT
2016 -11- 03
BUILDING 1 01 0079

Please ensure that the account number and the [illegible] account is correct as Absa Bank Limited cannot be held responsible for errors resulting from incorrect information.
Maak asseblief seker dat die rekeningnommer en ander transaksie bedrag korrek is aangesien Absa Bank Beperk nie verantwoordelik gehou kan word vir foute wat uit foutiewe inligting spruit nie.

Signature/Handtekening

035 789 5499

Absa Bank Limited/Bpark Reg No 1986/004794/06
Authorised Financial Services Provider/Gemagtigde Finansiële Diensverskaffer Licence No
Registered Credit Provider/Geregistreerde Kredietverskaffer Reg No NCRCP7
Absa 5258 EX(Cabin) 01/07/2010

To be completed for third party deposits

Transaction done by/Transaksie gedoen deur (Name/Naam)

Tel no/Tel-no

Office use

Identity number / Passport number

Issue date	Authorised number	Authorised by
D D M M C C Y Y		

Signature _____ (Verified by)

ID Buddy used Y N

COMMISSION OF INQUIRY INTO STATE CAPTURE

3038153

ABSA

Member of / Lid van BARCLAYS

20 SEP 2017 15:13:47 40-7404-5177 019977 080139
CD **********50,000.00

JACOB ZUMA FOUNDATION NPC

REFERENCE NUMBER NKOSI DONATION
0043 000023937 R 000,049,800.00

R200: R000,040,000.00 199 R100: R000,010,000.00 100

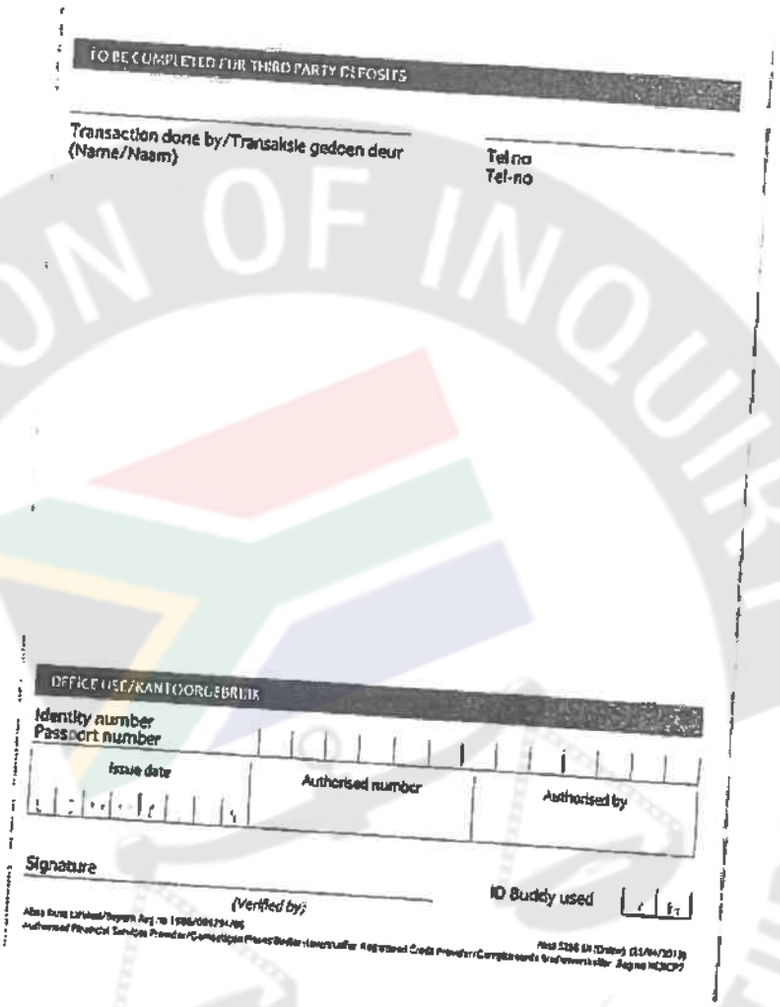
ABSA Bank Limited/Beperk Reg. No. 1986/004794/06 JOHANNESBURG CHEQ PROC UNIT
2017 -09- 20
T06 / 3912
62 - 58 - 05

Please ensure that the account number and the transaction amount is correct as Absa Bank Limited cannot be held responsible for errors resulting from incorrect information.

Maak asseblief seker dat die rekeningnommer en die transaksie bedrag korrek is aangesien Absa Bank Beperk nie verantwoordelik gehou kan word vir foute wat uit foutiewe inligting spruit nie.

Signature/Handtekening

Absa Bank Limited/Beperk Reg no 1986/004794/06
Authorised Financial Services Provider/Gemagtigde Finansiële Diensverskaffer Registered Credit Provider/Geregistreerde Kredietverskaffer Reg no NCRCP7



TO BE COMPLETED FOR THIRD PARTY DEPOSITS

Transaction done by/Transaksie gedoen deur (Name/Naam)

Tel no
Tel-no

OFFICE USE/KANTOORGEBRUIK

Identity number
Passport number

Issue date

Authorised number

Authorised by

Signature

(Verified by)

ID Buddy used

COMMISSION OF INQUIRY INTO STATE CAPTURE

3038152

ABSA

16 SEP 2017 20:24:21 40-7404-5177 039600
CD **********95,000.00

JACOB ZUMA FOUNDATION NPC

REFERENCE NUMBER DONATION
0035 000023886

R000: R330,015,000.00 R000: R013,013,000.00

ABSA Bank Limited/Barpark Reg. No. 1986/004794/06 Tshwane PRETORIA
JOHANNESBURG CHEQ PROCURT
2017 -09- 4
05

Please ensure that the account number and the transaction amount is correct as Absa Bank Limited cannot be held responsible for any loss resulting from incorrect information.
Maak asseblief seker dat die rekeningnommer en die transaksie bedrag korrek is aangesien Absa Bank Beperk nie verantwoordelik gehou kan word vir foute wat uit foutlewe inligting spruit nie.

Signature/Handtekening _____

Absa Bank Limited/Barpark Reg no 1986/004794/06 Absa 3266 EC (Date 01/07/2014)
Authorised Financial Services Provider/Gemagtigde Finansiële Diensverskaffer Registered Credit Provider/Geregistreerde Kredietverskaffer Reg No NCRCP7

To be completed for third party deposits

Transaction done by/Transaksie gedoen deur (Name/Naam) _____

Tel no/Tel-no _____

Office use

Identity number / Passport number

Issue date	Authorised number	Authorised by
D D M M C C Y Y		

Signature _____ (Verified by)

ID Buddy used Y N

COMMISSION OF INQUIRY INTO STATE CAPTURE

3038147

ABSA

12 SEP 2017 21:53:31 40-7404-5177 020099
CD **********150,000.00

JACOB ZUMA FOUNDATION NPC

REFERENCE NUMBER DONATIONS
0051 000023847

R200: R000,150,000.00

ABSA
Bank Limited/Beperk
Reg. No 1986/004794/06
JOHANNESBURG CHIEF PROC UNIT
2017 -09- 12
6574
03-58-05

Please ensure that the account number and the transaction amount is correct as Absa Bank Limited cannot be held responsible for errors resulting from incorrect information.
Maak asseblief seker dat die rekeningnommer en die transaksie bedrag korrek is aangesien Absa Bank Beperk nie verantwoordelik gehou kan word vir foute wat uit foutiewe invoering spruit nie.

Signature/Handtekening _____

COMMISSION OF INQUIRY INTO STATE CAPTURE

To be completed for third party deposits

Transaction done by/Transaksie gedoen deur (Name/Naam)

Tel no/Tel-no

Office use

Identity number
Passport number

Issue date	Authorised number	Authorised by

Signature

(Verified by)

ID Buddy used

COMMISSION OF INQUIRY INTO STATE CAPTURE

3038154

ABSA

21 SEP 2017 10:01:07 40-7404-5277 023180
CD **********50,000.00

JACOB ZUMA FOUNDATION NPC

REFERENCE NUMBER DONATION
0009 000023938

R100: R000,050,000.00

ABSA
Bank Limited/Beperk
WITBANK CHEQ PROC UNIT
2017 -09- 21
T09 / 6202
62 - 45 - 50

Please ensure that the account number and the transaction amount is correct as Absa Bank Limited cannot be held responsible for errors resulting from incorrect information.
Maak asseblief seker dat die rekeningnommer en die transaksie bedrag korrek is aangesien Absa Bank Beperk nie verantwoordelik gehou kan word vir foute wat uit foutiewe inligting spruit nie.

Signature/Handtekening _____

To be completed for third party deposits

Transaction done by/Transaksie gedoen deur (Name/Naam) _____

Tel no/Tel-no _____

Office use

Identity number / Passport number

Issue date								Authorised number	Authorised by
D	D	M	M	C	C	Y	Y		

Signature _____ (Verified by)

ID Buddy used Y N

COMMISSION OF INQUIRY INTO STATE CAPTURE

3038140

3038141

ABSA

Member of / Lid van
BARCLAYS

06 FEB 2016 16:24:39 40-7404-5171 018648 080016
CD **********100,000.00

JACOB ZUMA FOUNDATION NPC

REFERENCE NUMBER DONATION - NYU
0038 0000014520 R 000,000,000 00

R100: R000,100,000.00 0

ABSA
Bank Limited/Beperk
Reg No. 1986/004794/06
JOHANNESBURG CHEQ PROC UNIT
2016 -02- 06
T03 / 6574
62 - 58 - 05

Please ensure that the account number and the transaction amount is correct as Absa Bank Limited cannot be held responsible for errors resulting from incorrect information.

Maak asseblief seker dat die rekeningnommer en die transaksie bedrag korrek is aangegee. Absa Bank Beperk nie verantwoordelik gehou kan word vir foute wat uit foutiewe inligting spruit nie.

Signature/Handtekening

COMMISSION OF INQUIRY INTO STATE CAPTURE

TO BE COMPLETED FOR THIRD PARTY DEPOSITS

Transaction done by/Transaksie gedoen deur (Name/Naam)

Tel no
Tel-no

R 100 000

OFFICE USE/KANTOORGEBRUIK

Identity number
Passport number

Issue date	Authorised number	Authorised by
D D M M C C Y Y		

ID Buddy used

Signature

(Verified by)

3038142

3038143

ABSA

Member of / Lid van
BARCLAYS

06 FEB 2016 16:29:23 40-7404-5177 018648 080016
CD **********30,000.00

JACOB ZUMA FOUNDATION NPC

REFERENCE NUMBER DONATION - NVU
0040 000014521 2 000,000,000.00

R100: R000 050,000.00 0

ABSA
Bank Limited/Beperk
Reg. No 1986/004794/06
JOHANNESBURG CHEQUE UNIT
2016 -02- 06
T03 / 6574
62 - 58 - 05

Please ensure that the account number and the transaction amount is correct as Absa Bank Limited cannot be held responsible for errors resulting from incorrect information.

Maak asseblief seker dat die rekeningnommer en die transaksie bedrag korrek is aangesien Absa Bank Beperk nie verantwoordelik gehou kan word vir foute wat uit foutiewe inligting spruit nie.

Signature/Handtekening

COMMISSION OF INQUIRY INTO STATE CAPTURE

TO BE COMPLETED FOR THIRD PARTY DEPOSITS

Transaction done by/Transaksie gedoen deur (Name/Naam)

Tel no
Tel-no

R

OFFICE USE/KANTOORGEBRUIK

Identity number
Passport number

Issue date	Authorised number	Authorised by
D D M M		

Signature

(Verified by)

ID Buddy used

COMMISSION OF INQUIRY INTO STATE CAPTURE

3038156

ABSA

07 OCT 2017 14:00:26 40-7804-5177 007529 060374
CQ **********20,000.00

JACOB ZUMA FOUNDATION NPC

REFERENCE NUMBER NHLANHLA
0041 060024057 R 000,000,000.00

R200: R000,004,600.00 0 R 50: R000,002,000.00 0
R100: R000,013,400.00 0

ABSA
Bank Limited/Beperk
Reg. No. 1986/004794/06
JOHANNESBURG CHEQ PROC UNIT
2017 -10- 07
T04 / 6574

Please ensure that the account number and the transaction amount is correct as Absa Bank Limited cannot be held responsible for errors resulting from incorrect information.

Maak asseblief seker dat die rekeningnommer en die transaksie bedrag korrek is aangesien Absa Bank Beperk nie verantwoordelik gehou kan word vir foute wat uit foutiewe inligting spruit nie.

Signature/Handtekening _____

COMMISSION OF INQUIRY INTO STATE CAPTURE

To be completed for third party deposits

Transaction done by/Transaksie gedoen deur (Name/Naam) _____

Tel no/Tel-no _____

Office use

Identity number / Passport number

Issue date	Authorised number	Authorised by
D D M M C C Y Y		

Signature _____ *(Verified by)*

ID Buddy used Y N

COMMISSION OF INQUIRY INTO STATE CAPTURE

3038155

ABSA

29 SEP 2017 19:47:42 40-7404-5177 006032
CD **********90,000.00

JACOB ZUMA FOUNDATION NPC

REFERENCE NUMBER DONATION
0039 000024029

R100; R000,090,000.00

G.S.A.
Barry Limited
Reg. No. 1961/000...
JOHANNESBURG CBD BRANCH
2017 -09- 29
BULK TOS / 657
62 - 51

Please ensure that the account number and the transaction amounts correct as Absa Bank Limited cannot be held responsible for errors resulting from incorrect information.
Maak asseblief seker dat die rekeningnommer en die transaksie bedrag korrek is aangesien Absa Bank Beperk nie verantwoordelik gehou kan word vir foute wat uit foutiewe inligting spruit nie.

Signature/Handtekening _____

Absa Bank Limited Reg No 1986/000738/06
Authorised Financial Services Provider/Gemagtigde Finansiële Dienste verskaffer Registered Credit Provider/Geregistreerde Kredietverskaffer Reg No NCRCP7
Absa 3256 XX (Debag) (11/07/2016)

COMMISSION OF INQUIRY INTO STATE CAPTURE

To be completed for third party deposits

Transaction done by/Transaksie gedoen deur (Name/Naam)

Tel no/Tel no 0166527821

Terry Pisa.

Office use

Identity number / Passport number 7409265512308 6

Issue date	Authorised number	Authorised by
D D M M C C Y Y		

Signature _____ (Verified by)

ID Buddy used Y N

COMMISSION OF INQUIRY INTO STATE CAPTURE

3038149

ABSA

14 SEP 2017 12:16:42 40-7404-5177 027214
CD **********50,000.00

JACOB ZUMA FOUNDATION NPC

REFERENCE NUMBER DONATION
0056 000023881

R100; R000,050,000.00

ABSA
Bank Limited/Depark
Acc. No. 1866040488
VITBANK CNC PROC UNIT
2017 -09- 14
TOS / 8551
62 - 45 - 50

Please ensure that the account number and the transaction amount is correct as Absa Bank Limited cannot be held responsible for errors resulting from incorrect information.

Maak asseblief seker dat die rekeningnommer en die transaksie bedrag korrek is aangesien Absa Bank Beperk nie verantwoordelik gehou kan word vir foute wat uit foutiewe inligting spruit nie.

Signature/Handtekening

COMMISSION OF INQUIRY INTO STATE CAPTURE

To be completed for third party deposits

Transaction done by/Transaksie gedoen deur (Name/Naam) _____

Tel no/Tel-no _____

Office use

Identity number / Passport number

Issue date	Authorised number	Authorised by
D D M M C C Y Y		

ID Buddy used Y N

Signature _____

(Verified by)

Absa Bank Limited/Banpark Reg No 1986/004794/06
Authorised Financial Services Provider/Erkende Finansiële Dienste Verskaffer
Absa 5286 BA (Direct) (14/08/2018
Registered Credit Provider/Geregistreerde Kredietverskaffer Reg No NCRCP7

3038146

ABSA

02 MAR 2017 12:20:56 40-7404-5177 002856
CD **********20,000.00

JACOB ZUMA FOUNDATION NPC

REFERENCE NUMBER DONATION
0052 000021744

BIGO: EGOO,020,000.00



Please ensure that the account number and the transaction amount is correct as Absa Bank Limited cannot be held responsible for errors resulting from incorrect information.

Maak asseblief seker dat die rekeningnommer en die transaksie bedrag korrek is aangesien Absa Bank Beperk nie verantwoordelik gehou kan word vir foute wat uit foutiewe inligting spruit nie.

Signature/Handtekening _____

COMMISSION OF INQUIRY INTO STATE CAPTURE

To be completed for third party deposits

Transaction done by/Transaksie gedoen deur (Name/Naam) _____

Tel no/Tel-no _____

200x150

Office use

Identity number
Passport number

Issue date	Authorised number	Authorised by
D D M M C C Y Y		

Signature _____ ID Buddy used

(Verified by)

COMMISSION OF INQUIRY INTO STATE CAPTURE

3038150

ABSA

14 SEP 2017 12:57:28 40-7404-5177 001117
CD **********50,000.00

JACOB ZUMA FOUNDATION NPC

REFERENCE NUMBER DONATION
0011 000023882

R200: R000,030,000.00

ABSA
Bank Limited/Beperk
Reg No 1986/004794/06
JOHANNESBURG CHEQUE 000.00
2017 -09- 14
TOS / 6571
62 - 58 - 05

Please ensure that the account number and the transaction amount is correct as Absa Bank Limited cannot be held responsible for errors resulting from incorrect information.
Maak asseblief seker dat die rekeningnommer en die transaksie bedrag korrek is aangesien Absa Bank Beperk nie verantwoordelik gehou kan word vir foute wat uit foutiewe inligting spruit nie.

Signature/Handtekening _____

COMMISSION OF INQUIRY INTO STATE CAPTURE

To be completed for third party deposits

CD

Transaction done by/Transaks e gedoen deur (Name/Naam)

60 000

Tel no/Tel-no

Office use

Identity number
Passport number

Issue date	Authorised number	Authorised by
D D M M C C Y Y		

Signature _____ ID Buddy used Y N

(Verified by)

COMMISSION OF INQUIRY INTO STATE CAPTURE

3038148.

ABSA

14 SEP 2017 10:10:53 40-7404-5177 036316
CQ **********50,600.00

JACOB ZUMA FOUNDATION NPC

REFERENCE NUMBER DONATION
0015 000023880

R100: R000,050,000.00

Bank Limited/Beperk
Reg. No. 1986/004794/06
WITBANK CHEQ PROC UNIT
2017 -09- 14
04 45 50

Please ensure that the account number and the transaction amount are correct as Absa Bank Limited cannot be held responsible for errors resulting from incorrect information.
Maak asseblief seker dat die rekeningnommer en die transaksiebedrag korrek is aangesien Absa Bank Beperk nie verantwoordelik gehou kan word vir foute wat uit foutiewe inligting spruit nie.

Signature/Handtekening

Absa Bank Limited/Beperk Reg No 1986/004794/06
Authorised Financial Services Provider/Gemagtigde Finansiële Dienste Verskaffer Registered Credit Provider/Geregistreerde Kredietverskaffer Reg No NCRCP7

Absa 2266 BK (Online) (21/03/2016)

To be completed for third party deposits

Transaction done by/Transaksie gedoen deur (Name/Naam) _____

Tel no/Tel-no _____

Office use

Identity number / Passport number

Issue date								Authorised number	Authorised by
D	D	M	M	C	C	Y	Y		

Signature _____ (Verified by)

ID Buddy used [Y] [N]

COMMISSION OF INQUIRY INTO STATE CAPTURE

COMMISSION OF INQUIRY
INTO STATE CAPTURE

COMMISSION OF INQUIRY
INTO STATE CAPTURE

COMMISSION OF INQUIRY
INTO STATE CAPTURE

COMMISSION OF INQUIRY
INTO STATE CAPTURE

20 38098

ABSA

DEPOSIT SLIP/DEPOSITOSTROKIE

Member of / Lid van BARCLAYS

Credit / Krediteer JACOB ZUMA FOUNDATION

Date / Datum 2015 | 03 | 10

Paid in by / Inbetaal deur JACOB ZUMA FOUNDATION

Signature / Handtekening

Tel (035) 789 5499

Drawer's name / Trekkers se naam	Bank	Branch name/Clearing code / Takknaam/Verrek-kode	R	c
		Notes/Note	50 000	00
		Coins/Munte		
		MO/PW and/en PO		
		Subtotal/Subtotaal	50 000	00
1				
2				
3				

TELLER'S STAMP / KASSIER'S STEMPEL

Total / Totaal R 50 000 00

Authorised Financial Services Provider / Gemagtigde Finansiële Dienstverskaffer

Acc no/Rek-no 407405177

Dep reference / Dep-verwysing DON-SAS

70

COMMISSION OF INQUIRY STATE CAPTURE

10 MAR 2015 10:26:45 40e7404e5177 007033

last (seventy) delivered for collection by the Customer or on his behalf shall be made available as cash only after 150,000.00 thereof. Any payment against uncleared effects allowed by the Bank shall be at the Bank's discretion and no claim arising from this practice shall be maintainable against the Bank and furthermore the Bank shall, in its discretion, be entitled to debit the Customer's account with the amount dishonoured instruments. The Bank shall not be held responsible for errors resulting from incorrect information furnished by the Customer or on his behalf. Furthermore, the Bank does not accept any responsibility for ensuring that the Customer has lawful title to instruments handed in for collection.

JACOB ZUMA FOUNDATION NPC

REFERENCE NUMBER DON-615

0028-00001463

R100: R000,050,000.00

10 MAR 2015 10:26:45 40e7404e5177 007033

Tjeks, wissels, promesses of ander verhandelbare dokumente (instrumente) wat deur of namens die Kliënt gelewer word vir invordering sal slegs as kontant beskikbaar wees na betaling. Enige betaling teen onverrekende waardes wat deur die Bank toegelaat word, sal geëer in die Bank se diskresie wees en geen eis wat uit hierdie praktyk voortspruit sal teen die Bank ingestel kan word nie, verder sal die Bank gerегtig wees om in sy diskresie die Kliënt se rekening te debiteer met die bedrag van alle instrumente wat oneerlik word. Die Bank kan nie aanspreeklik gehou word vir foute wat mag ontstaan as gevolg van verkeerde inligting wat deur of namens die Kliënt verskaf is nie. Die Bank aanvaar ook nie aanspreeklikheid om te verseker dat die Kliënt regmatige titel het op instrumente ingehandig vir invordering nie.

JACOB ZUMA FOUNDATION NPC

REFERENCE NUMBER DON-615

0028-00001463

R100: R000,050,000.00

COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-1509

3038095

24 MAR 2014 10:24:25 40-7404-5177 029766
CD **********5,000.00

JACOB ZUMA FOUNDATION NPC

REFERENCE NUMBER MR D.V MKHAMBULE
0013 000009225

R2CO: R000,005,000.00



OFFICE USE/KANTOORGEBRUIK

Identity number
Passport number

Issue date	Authorised number	Authorised by
D D M M C C Y Y		

Signature _____ ID Buddy used Y N

(Verified by)

COMMISSION OF INQUIRY INTO STATE CAPTURE

ABSA

Member of / Lid van BARCLAYS

Cash deposit / Kontantstorting [X]

Internal Transfer / Interne Oorplasing [ ]

Cash withdrawal / Kontantontrekking [ ]

Cheque withdrawal / Tjekontrekking [ ]

(Please ensure that your account number is correct as Absa Bank Limited cannot be held responsible for errors resulting from incorrect information)
(Maak asseblief seker dat u rekeningnommer korrek is aangesien Absa Bank Beperk nie verantwoordelik gehou kan word vir foute wat uit foutiewe inligting spruit nie)

Accountholder name/Rekeninghouer se naam
J. Z. Foundation

Accountholder number/Rekeninghouer se nommer
4 0 7 1 4 0 4 6 1 7 7 1

Amount/Bedrag: R 5 0 9 0 . 0 0

I/We authorise Absa Bank Limited to draw a cheque in favour of (applicable to cheque withdrawal)
Ek/Ons magtig Absa Bank Beperk om 'n tjek te trek ten gunste van (op tjekontrekking van toepassing)

Date / Datum 2 4 0 3 2 0 1 4

Tel no / Tel-no

Transaction done by/Transaksie gedoen deur (Name/naam)

Signature/Handtekening

Absa Bank Limited/Beperk Reg no 1986/004794/06
Authorised Financial Service Provider/Gemagtigde Finansiële Dienste Verskaffer Registered Credit Provider/Geregistreerde Kredietverskaffer Reg no NCRCP7

Absa 4213 EX (09/13) (E) (L)

COMMISSION OF INQUIRY INTO STATE CAPTURE

14 NOV 2014 15:29:09 40-7404-5177 006578

instruments delivered for collection by the Customer or on his behalf shall be made available as cash only after payment thereof. Any payment against uncleared effects allowed by the Bank shall be at the Bank's discretion and no claim arising from this discretion, be entitled to debit the Customer's account with the amount dishonoured against the Bank and furthermore the Bank shall, in its information furnished by the Customer or on his behalf. Furthermore, the Bank does not accept responsibility for ensuring that the Customer has lawful title to instruments handed in for collection.

R200: R000,060,000.00 R100: R000,040,000.00

14 NOV 2014 15:29:09 40-7404-5177 006578

Tjeks, wissels, promessesorname en ander verhandelbare dokumente (instrumente) wat deur of namens die Kliënt gelewer word vir invordering sal slegs as kontant beskikbaar wees na betaling. Enige betaling teen onverrekende waardes wat deur die Bank toegelaat word, sal volgens die Bank se diskresie wees en geen eis wat uit hierdie praktyk voortspruit sal teen die Bank ingestel kan word nie. Verder sal die Bank geregtig wees om te sy diskresie die Kliënt se rekening te debiteer met die bedrag van alle items wat gedishonoureer word. Die Bank kan nie aanspreeklik gehou word vir enige verliese wat ontstaan as gevolg van verkeerde inligting wat deur of namens die Kliënt verskaf is nie. Die Bank aanvaar ook nie aanspreeklikheid om te verseker dat die Kliënt regmatige titel het op instrumente ingehandig vir invordering nie.

R200: R000,060,000.00 R100: R000,040,000.00

COMMISSION FOR INQUIRY INTO STATE CAPTURE

~~3655196~~

3038103

ABSA

Member of / Lid van BARCLAYS

10 MAY 2016 15:00:16 40-7404-5177 026080
CU **********10,000.00

JACOB ZUMA FOUNDATION NPC

REFERENCE NUMBER offset-donation
0031 000016484

R100: R000,010,000.00

ABSA Bank Limited/Beperk DURBANCHEQ PROCUNIT
10 MAY 2016
603 6118 45 - 26

Please ensure that the account number and the transaction amount is correct as Absa Bank Limited cannot be held responsible for errors resulting from incorrect information.

Maak asseblief seker dat die rekeningnommer en die transaksie bedrag korrek is aangesien Absa Bank Beperk nie verantwoordelik gehou kan word vir foute wat uit foutiewe inligting spruit nie.

Signature/Handtekening

COMMISSION OF INQUIRY INTO STATE CAPTURE

TO BE COMPLETED FOR THIRD PARTY DEPOSITS

Transaction done by/Transaksie gedoen deur (Name/Naam)

Tel no
Tel-no

OFFICE USE/KANTOORGEBRUIK

Identity number
Passport number

Issue date	Authorised number	Authorised by
D D M M C C Y Y		

Signature

(Verified by)

ID Buddy used Y N

COMMISSION OF INQUIRY INTO STATE CAPTURE

0038144

01 MAR 2016 21:54:00 40-7404-5177 019053
CD **********100,000.00

JACOB ZUMA FOUNDATION NPC

REFERENCE NUMBER JGZF
0052 000014790

R100: R000,050,000.00 R 50: R000,050,000,00

BULK 7 / /
62 - 58

OFFICE USE/KANTOORGEBRUIK

Identity number
Passport number

Issue date	Authorised number	Authorised by
D D M M C C Y Y		

Signature _____ ID Buddy used

(Verified by)

COMMISSION OF INQUIRY INTO STATE CAPTURE

ABSA

Member of / Lid van BARCLAYS

Cash Deposit / Kontantdeposito ☐
Internal Transfer / Interne Oorplasing ☐
Cash withdrawal / Kontantontrekking ☐
Cheque withdrawal / Tjekontrekking ☐

(Please ensure that your account number is correct as Absa Bank Limited cannot be held responsible for errors resulting from incorrect information)
(Maak asseblief seker dat u rekeningnommer korrek is aangesien Absa Bank Beperk nie verantwoordelik gehou kan word vir foute wat uit foutiewe inligting spruit nie)

Accountholder name/Rekeninghouer se naam
JACOB ZUMA FOUNDATION

Accountholder number/Rekeninghouer se nommer
4 0 7 1 4 0 1 4 5 1 1 7 7

Credit account name (reason) / Kredietrekening se naam (rede vir)

For Credit Account

Deposit reference number (applicable only) / Deposito verwysing nommer (van toepassing)
G Z F

Amount/Bedrag: R 1 1 0 0 0 0 0 , 0 0

I/We authorise Absa Bank Limited to draw a cheque in favour of (applicable to cheque withdrawal)
Ek/Ons magtig Absa Bank Beperk om 'n tjek te trek ten gunste van (op tjekontrekking van toepassing)

Date / Datum 0 6 0 3 2 0 1 6

Tel no / Tel no 035 789 5499

M.M. Ramoie

Transaction done by / Transaksie gedoen deur (Name/naam)

Signature / Handtekening

COMMISSION OF INQUIRY INTO STATE CAPTURE

3034/51

ABSA

ABSA Bank Limited/Reperk, Reg No 1986/004794/06

Member of the Lid van die BARCLAYS Group Groep

DEPOSIT SLIP/DEPOSITOSTROKIE

Credit Krediteur JACOB ZUMA FOUNDATION

Date Datum 14-09-2017

Paid in by Inbetaal deur JOHN MADZHIE

Signature Handtekening

Tel 082 803 6656

ABSA Division/Afdeling Corporate and Investment Banking Acc. No. 1888/017/06 POLOKWANE CMO PROC UNIT 2017-09-14 T09 / B661 62-45-48

Drawer's name Trekkers se naam

1

2

3

No cheque exceeding R5 billion can be accepted. Geen tjeks bo R5 miljoen kan aanvaar word nie.

	R	c
Notes/Note	50 000	00
Coins/Munte		
MO/PW and/en PO		
Subtotal/Subtotaal		
Branch name/Clearing code Takmaam/Verrek-kode		

Total Totaal R 50 000 00

Authorised Financial Services Provider/Gemagtigde Finansiëledienstverskaffer

Acc no/Rek-no 4074045177

Dep reference Dep-verwysing DOMATION

70

ABSA 25 (WAREHOUSE 507) ABSA (04/2004)

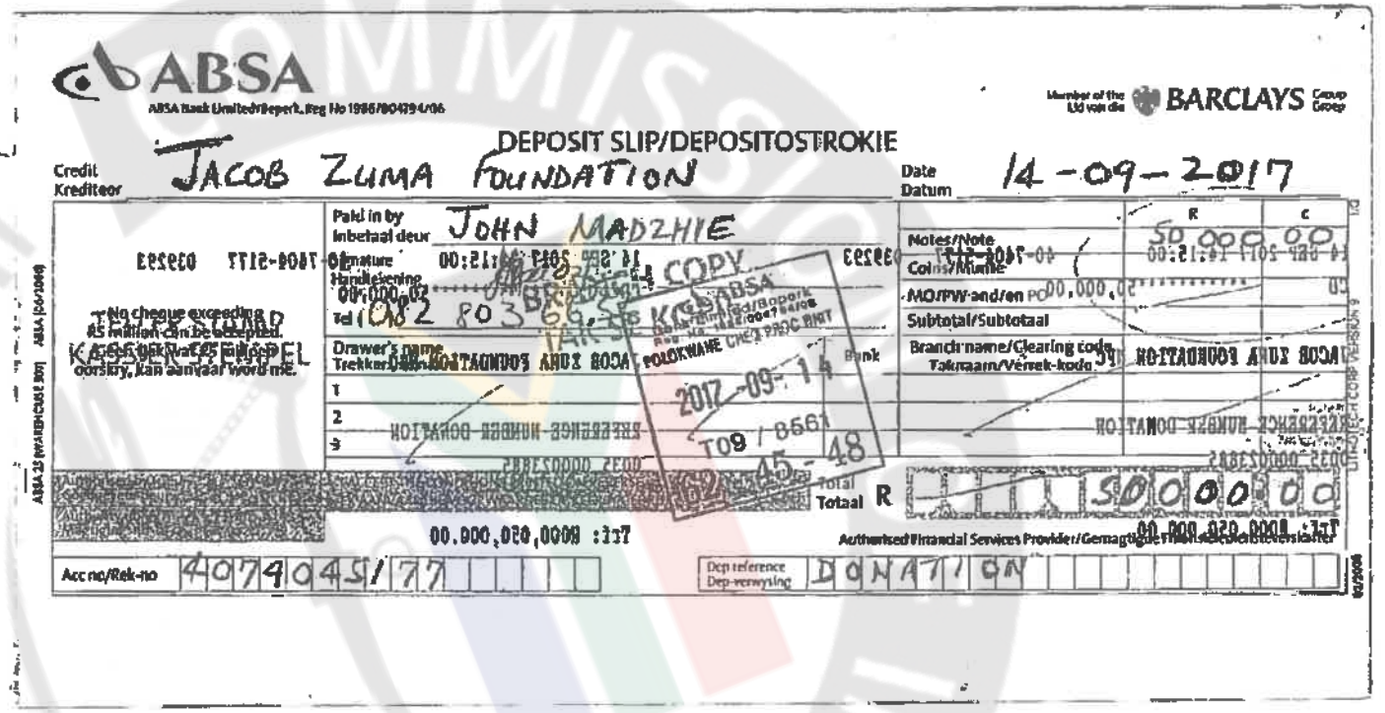
LITHOTECH CORP YEARBOOK

032000

COMMISSION OF INQUIRY INTO STATE CAPTURE

Instruments delivered for collection by the Customer or on his behalf shall be made available as cash only after payment thereof. Any payment against uncleared effects allowed by the Bank shall be at the Bank's discretion and no claim arising from this practice shall be brought against the Bank and furthermore the Bank shall, at its discretion, be entitled to debit the Customer's account with the amount of dishonoured Instruments. The Bank shall not be held responsible for errors resulting from incorrect information furnished by the Customer or on his behalf. Furthermore, the Bank does not accept responsibility for ensuring that the Customer has lawful title to instruments handed in for collection.

Tjeks, wissels, promesses en ander verhandelbare dokumente (instrumente) wat deur of namens die Kliënt gelewer word vir invordering sal slegs as kontant beskikbaar wees na betaling. Enige betaling teen onverrekende waardes wat deur die Bank toegelaat word, sal egter in die Bank se diskresie wees en geen eis wat uit hierdie praktyk voortspruit sal teen die Bank ingestel kan word nie, verder sal die Bank geregtig wees om in sy diskresie die Kliënt se rekening te debiteer met alle bedrag van alle instrumente wat gedishonoreer word. Die Bank kan nie aanspreeklik gehou word vir foute wat mag ontstaan as gevolg van verkeerde inligting wat deur of namens die Kliënt verskaf is nie. Die Bank aanvaar ook nie aanspreeklikheid om te vergewis dat die Kliënt regmatige titel het op instrumente ingehandig vir invordering nie.



ABSA

ABSA Bank Limited/Beperk. Reg No 1986/004794/06

Member of the Lid van die BARCLAYS Group Groep

DEPOSIT SLIP/DEPOSITOSTROKIE

Credit / Krediteur: JACOB ZUMA FOUNDATION

Date / Datum: 14-09-2017

Paid in by / Inbetaal deur: JOHN MADZHIE

Signature / Handtekening

Tel: 082 803 66..

COPY

KGS ABSA

2017-09-14

T09 / 8661

45 - 48

Drawer's name / Trekker se naam: JACOB ZUMA FOUNDATION

Bank

1

2

3

REFERENCE NUMBER DONATION

Total / Totaal R 50 000 00

Notes/Note: 50 000 00

Coins/Munte

MO/PW and/en PO

Subtotal/Subtotaal

Branch name/Clearing code / Takraam/Vereek-kode: JACOB ZUMA FOUNDATION

Acc no/Rek-no: 4074045177

Dep reference / Dep-verwysing: DONATION

Authorised Financial Services Provider / Gemagtigde Finansiële Dienste Verskaffer

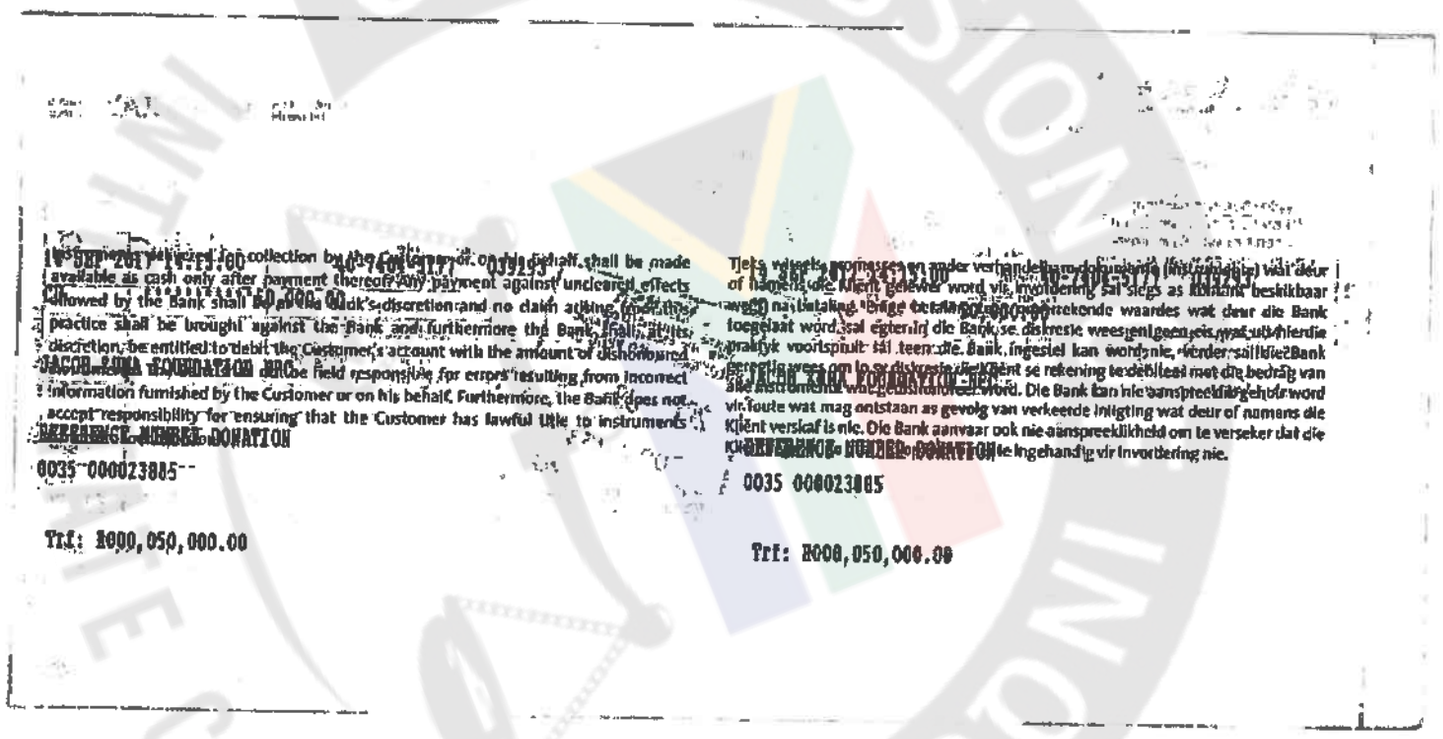
No cheque exceeding R5 million can be accepted. Kontant of tjeks tot R5 miljoen oorskry, kan aanvaar word nie.

ABSA 25 (MARENCASE 2017) ABSA (06/2016)

00.000,020,0000 :ΠΓ

3038171

COMMISSION OF INQUIRY STATE CAPTURE



collection by the Customer or on his behalf, shall be made available as cash only after payment thereof. Any payment against uncleared effects allowed by the Bank shall be at the Bank's discretion and no claim arising from this practice shall be brought against the Bank and furthermore the Bank shall, at its discretion, be entitled to debit the Customer's account with the amount of dishonoured [illegible] DONATION cannot be held responsible for errors resulting from incorrect information furnished by the Customer or on his behalf. Furthermore, the Bank does not accept responsibility for ensuring that the Customer has lawful title to instruments [illegible] DONATION

0035 000023885

Trf: R000,050,000.00

Tjeks, wisels, promesses en ander verhandelbare dokumente (instrumente) wat deur of namens die Klient gelewer word vir invordering sal slegs as kontant beskikbaar gestel na betaling daarvan en enige bedrae verreken wat deur die Bank toegelaat word, sal egter in die Bank se diskresie wees en geen eis wat uit hierdie praktyk voortspruit sal teen die Bank ingestel kan word nie, verder sal die Bank [illegible] DONATION geregtig wees om te sy diskresie die Klient se rekening te debiteer met die bedrag van die instrument wat gekrediteer is. Die Bank kan nie aanspreeklik gehou word vir foute wat mag ontstaan as gevolg van verkeerde inligting wat deur of namens die Klient verskaf is nie. Die Bank aanvaar ook nie aanspreeklikheid om te verseker dat die Klient [illegible] DONATION le ingehandig vir invordering nie.

0035 000023885

Trf: R000,050,000.00

DD34-DCM-1521

3038157

ABSA

17 OCT 2017 20:15:54 40-7404-5177 019053
CD **********200,000.00

JACOB ZUMA FOUNDATION NPC

REFERENCE NUMBER LOAN REPAYMENT
0025 000024071

R100: R000,200,000.00

ABSA Bank Limited/Beperk Reg. No. 1986/004794/06 JOHANNESBURG CISO PROC UNIT
2017 -10- 17
BULK T07 / 6574
62 - 58 - 05

Please ensure that the account number and the transaction amount is correct as Absa Bank Limited cannot be held responsible for errors resulting from incorrect information.

Maak asseblief seker dat die rekeningnommer en die transaksie bedrag korrek is aangesien Absa Bank Beperk nie verantwoordelik gehou kan word vir foute wat uit foutiewe inligting spruit nie.

Signature/Handtekening

COMMISSION OF INQUIRY INTO STATE CAPTURE

To be completed for third party deposits

Transaction done by/Transaksie gedoen deur (Name/Naam)

Tel no/Tel-no

407 409 5177

REF: LOAN REPAYMENT

NONGUDZA ROPHIWA

Office use

Identity number / Passport number: 8 6 0 8 3 0 5 5 7 6 2 0 8 6

Issue date	Authorised number	Authorised by
D D M M C C Y Y		

Signature

(Verified by)

ID Buddy used Y N

COMMISSION OF INQUIRY INTO STATE CAPTURE

3039159

ABSA

26 JAN 2018 15:11:16 40-7404-5177 019916
CD **********200,000.00

JACOB ZUMA FOUNDATION NPC

REFERENCE NUMBER DONATION
0051 000025130

8200: R000,200,000.00

ABSA
Bank Limited/Beperk
Reg. No. 1986/004794/06
PRETORIA CHEQ PROC UNIT
2018 -01- 26
BULK TELLER / 8920
62 - 62 - 45

Please ensure that the account number and the transaction amount is correct as Absa Bank Limited cannot be held responsible for errors resulting from incorrect information.

Maak asseblief seker dat die rekeningnommer en die transaksie bedrag korrek is aangesien Absa Bank Beperk nie verantwoordelik gehou kan word vir foute wat uit foutiewe inligting spruit nie.

Signature/Handtekening _____

COMMISSION OF INQUIRY INTO STATE CAPTURE

To be completed for third party deposits

Transaction done by/Transaksie gedoen deur (Name/Naam)

0725444106
Tel no/Tel-no

200 000

4076045477

Office use

Identity number / Passport number

Issue date	Authorised number	Authorised by
D D M M C C Y Y		

Signature _____ (Verified by)

ID Buddy used Y N

COMMISSION OF INQUIRY INTO STATE CAPTURE

Standard Bank

00160006473S

EMPANGENI
SHOP 11A, EMPANGENI S/PO BOX 61577
45 MAXWELL STR; EMPANGMARSHALLTOWN
EMPANGENI 3880 GAUTENG 2107

EMPANGENI
PO BOX 61577 MARSHALLTOWN
2107

Private Banking Contact Centre: 0860 123 101
e-mail: Privatebanking@standardbank.co.za

21 July 2019

MS DC MYENI
PO BOX 30527
RICHARDS BAY
3900

EMPANGENI 7530
Monthly NO PRINT

Statement No 7
VAT Reg. No.
Page 1 of 5

Statement Frequency Monthly
Statement from 21 June 2019 to 21 July 2019

BANK STATEMENT / TAX INVOICE

PLUSPLAN Account Number 16 000 647 3

Month-end Balance R 639.78

Details		Service Fee	Debits	Credits	Date	Balance
DEBIT TRANSFER			710.00-		07 01	70.22-
VODACOM 0316458270 I3115102						
FEE - DEBIT ORDER	##		18.00-		07 01	88.22-
RTD-NOT PROVIDED FOR				710.00	07 01	621.78
VODACOM 0316458270 I3115102						
FEE-UNPAID ITEM	##		58.50-		07 01	563.28
INSURANCE PREMIUM			831.00-		07 01	267.72-
HOLLARD HOL4083271 190701						

These fees include VAT at 14% up to 31 March 2018 and at 15% from 1 April 2018.

Please verify all transactions reflected on this statement and notify any discrepancies to the Bank as soon as possible.

The Standard Bank of South Africa Limited (Reg. No. 1962/000738/06)
Authorised financial services provider
VAT Reg No. 4100105461 Registered credit provider (NCRCP15).
We subscribe to the Code of Banking Practice of the Banking Association South Africa and, for unresolved disputes, support resolution through the Ombudsman for Banking Services.

Copy Statement

Standard Bank

00160006473S

EMPANGENI
SHOP 11A, EMPANGENI S/PO BOX 61577
45 MAXWELL STR; EMPANGMARSHALLTOWN
EMPANGENI
3880

EMPANGENI
GAUTENG
2107

EMPANGENI
PO BOX 61577 MARSHALLTOWN
2107

Private Banking Contact Centre: 0860 123 101
e-mail: Privatebanking@standardbank.co.za

21 July 2019

MS DC MYENI
PO BOX 30527
RICHARDS BAY
3900

EMPANGENI 7530
Monthly NO PRINT

Statement No 7
VAT Reg. No.

Statement Frequency Monthly
Statement from 21 June 2019 to 21 July 2019

BANK STATEMENT / TAX INVOICE

PLUSPLAN Account Number 16 000 647 3

Details	Service Fee	Debits	Credits	Date	Balance
BALANCE BROUGHT FORWARD					267.72-
FEE - DEBIT ORDER	##	18.00-		07 01	285.72-
RTD-NOT PROVIDED FOR			831.00	07 01	545.28
HOLLARD HOL4083271 190701					
FEE-UNPAID ITEM	##	58.50-		07 01	486.78
ACCOUNT PAYMENT		2,157.62-		07 01	1,670.84-
OMSUREPREM612196672-0031351959					
FEE - DEBIT ORDER	##	18.00-		07 01	1,688.84-
RTD-NOT PROVIDED FOR			2,157.62	07 01	468.78
OMSUREPREM612196672-0031351959					
FEE-UNPAID ITEM	##	58.50-		07 01	410.28
AUTOBANK CASH DEPOSIT			5,000.00	07 02	5,410.28
loan	8117				
AUTOBANK CASH DEPOSIT			5,000.00	07 02	10,410.28
loan	8117				
AUTOBANK CASH DEPOSIT			5,000.00	07 02	15,410.28
loan	8117				
CASH DEPOSIT FEE - AUTOBANK	##	92.50-		07 02	15,317.78
CASH DEPOSIT			9,000.00	07 02	24,317.78
LOAN					
CASH DEPOSIT FEE - BRANCH	##	175.00-		07 02	24,142.78
00160006473 HARBOUR VIEW SERVIC					
INSURANCE PREMIUM		640.92-		07 02	23,501.86
MOMENTUM SL095893779 9602UR					
DEBIT CARD PURCHASE FROM		2,975.00-		07 03	20,526.86
LANCET UMHLANGA 2019-07-03T14:5					
DEBIT CARD PURCHASE FEE	##	5.50-		07 03	20,521.36
160006473					
CREDIT TRANSFER			7,889.76	07 03	28,411.12
CASHFOCUS CENTLEC SOC					

These fees include VAT at 14% up to 31 March 2018 and at 15% from 1 April 2018.

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Statement from 21 June 2019 to 21 July 2019

BANK STATEMENT / TAX INVOICE

PLUSPLAN Account Number 16 000 647 3

Details	Service Fee	Debits	Credits	Date	Balance
BALANCE BROUGHT FORWARD					28,411.12
CREDIT TRANSFER CASHFOCUS CENTLEC SOC			10,446.84	07 03	38,857.96
CREDIT TRANSFER CASHFOCUS CENTLEC SOC			10,833.01	07 03	49,690.97
ACCOUNT PAYMENT ABSA-DUR 6525883426		1,902.99-		07 05	47,787.98
CREDIT INTEREST			0.94	07 06	47,788.92
DEBIT CARD PURCHASE FROM SIBAYA CASINO 2019-07-06T22:32:		5,000.00-		07 08	42,788.92
DEBIT CARD PURCHASE FEE 160006473	##	5.50-		07 08	42,783.42
DEBIT CARD PURCHASE FROM SIBAYA CASINO 2019-07-06T22:33:		5,000.00-		07 08	37,783.42
DEBIT CARD PURCHASE FEE 160006473	##	5.50-		07 08	37,777.92
DEBIT CARD PURCHASE FROM SIBAYA CASINO 2019-07-07T00:52:		10,000.00-		07 08	27,777.92
DEBIT CARD PURCHASE FEE 160006473	##	5.50-		07 08	27,772.42
DEBIT CARD PURCHASE FROM SIBAYA CASINO 2019-07-18T21:04:		10,000.00-		07 19	17,772.42
DEBIT CARD PURCHASE FEE 160006473	##	5.50-		07 19	17,766.92
AUTOBANK TRANSFER TO ACCOUNT 578441437782 22H30 263320904		8,000.00-		07 19	9,766.92
FEE-INTER ACCOUNT TRANSFER 160006473	##	5.50-		07 19	9,761.42
AUTOBANK CASH WITHDRAWAL AT 0000A958 2019-07-18T22:30:51 51		5,000.00-		07 19	4,761.42

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BANK STATEMENT / TAX INVOICE

PLUSPLAN Account Number 16 000 647 3

Details	Service Fee	Debits	Credits	Date	Balance
BALANCE BROUGHT FORWARD					4,761.42
CASH WITHDRAWAL FEE 160006473	##	105.00-		07 19	4,656.42
AUTOBANK CASH DEPOSIT LOAN	H790		4,400.00	07 19	9,056.42
CASH DEPOSIT FEE - AUTOBANK	##	81.40-		07 19	8,975.02
AUTOBANK CASH DEPOSIT LOAN	H790		1,600.00	07 19	10,575.02
CASH DEPOSIT FEE - AUTOBANK	##	29.60-		07 19	10,545.42
AUTOBANK CASH DEPOSIT THINGY	0926		6,000.00	07 20	16,545.42
CASH DEPOSIT FEE - AUTOBANK	##	111.00-		07 20	16,434.42
AUTOBANK CASH WITHDRAWAL AT 0000A958 2019-07-20T17:41:28 51		5,000.00-		07 20	11,434.42
CASH WITHDRAWAL FEE 160006473	##	105.00-		07 20	11,329.42
AUTOBANK CASH WITHDRAWAL AT 0000A958 2019-07-20T17:42:34 51		5,000.00-		07 20	6,329.42
CASH WITHDRAWAL FEE 160006473	##	105.00-		07 20	6,224.42
DEBIT CARD PURCHASE FROM SIBAYA CASINO 2019-07-20T18:46:		5,000.00-		07 20	1,224.42
DEBIT CARD PURCHASE FEE 160006473	##	5.50-		07 20	1,218.92

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BANK STATEMENT / TAX INVOICE

PLUSPLAN

Account Number 16 000 647 3

Interest Calculation

Date Posted	Date From	Date To	Days	Capital	Rate	Interest
2019/07/06	2019/07/02	2019/07/02	1	23,501.86	0.200 %	0.1288
2019/07/06	2019/07/03	2019/07/04	2	49,690.97	0.200 %	0.5446
2019/07/06	2019/07/05	2019/07/05	1	47,787.98	0.200 %	0.2619
Total						0.94

VAT Summary

Total charge amount (excluding VAT)	1,036.90 -
Total VAT	155.60 -
Total charge amount (including VAT)	1,192.50 -

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BANK STATEMENT / TAX INVOICE

PLUSPLAN Account Number 16 000 647 3

Month-end Balance R 5,061.68

Details	Service Fee	Debits	Credits	Date	Balance
BALANCE BROUGHT FORWARD				07 21	1,218.92
AUTOBANK CASH WITHDRAWAL AT 0000A958 2019-07-24T18:45:23 45		1,000.00-		07 24	218.92
CASH WITHDRAWAL FEE 160006473	##	21.00-		07 24	197.92
CREDIT TRANSFER CASHFOCUS SALARY 200257			9,074.76	07 24	9,272.68
CASH DEPOSIT VUSI			3,000.00	07 25	12,272.68
CASH DEPOSIT FEE - BRANCH 00160006473 GATEWAY	##	64.00-		07 25	12,208.68
DEBIT CARD PURCHASE FROM SIBAYA CASINO 2019-07-25T17:31:		10,000.00-		07 25	2,208.68
DEBIT CARD PURCHASE FEE 160006473	##	5.50-		07 25	2,203.18
TRANSFER FROM 00000050269062			5,000.00	07 26	7,203.18
DEBIT CARD PURCHASE FROM SIBAYA CASINO 2019-07-26T22:14:		5,000.00-		07 27	2,203.18
DEBIT CARD PURCHASE FEE 160006473	##	5.50-		07 27	2,197.68
DEBIT CARD PURCHASE FROM SIBAYA CASINO 2019-07-28T21:05:		2,000.00-		07 29	197.68
DEBIT CARD PURCHASE FEE 160006473	##	5.50-		07 29	192.18

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BANK STATEMENT / TAX INVOICE

PLUSPLAN

Account Number 16 000 647 3

Details	Service Fee	Debits	Credits	Date	Balance
BALANCE BROUGHT FORWARD					192.18
TRANSFER FROM MYENI DC			20,000.00	07 30	20,192.18
DEBIT CARD PURCHASE FROM SIBAYA CASINO 2019-07-30T20:05:		10,000.00-		07 31	10,192.18
DEBIT CARD PURCHASE FEE 160006473	##	5.50-		07 31	10,186.68
AUTOBANK CASH WITHDRAWAL AT 0000A958 2019-07-30T20:52:59 51		5,000.00-		07 31	5,186.68
CASH WITHDRAWAL FEE 160006473	##	105.00-		07 31	5,081.68
MONTHLY MANAGEMENT FEE	##	20.00-		07 31	5,061.68
INSURANCE PREMIUM HOLLARD HOL4083271 190801		822.00-		08 01	4,239.68
FEE - DEBIT ORDER	##	18.00-		08 01	4,221.68
ACCOUNT PAYMENT OMSUREPREM612196672-0031631054		2,157.62-		08 01	2,064.06
FEE - DEBIT ORDER	##	18.00-		08 01	2,046.06
DEBIT TRANSFER OMSUREPREM612196672-0031454269		2,157.62-		08 01	111.56-
FEE - DEBIT ORDER	##	18.00-		08 01	129.56-
RTD-NOT PROVIDED FOR OMSUREPREM612196672-0031454269		2,157.62		08 01	2,028.06
FEE-UNPAID ITEM	##	58.50-		08 01	1,969.56
DEBIT TRANSFER VODACOM 0318454645 I3115102		1,520.88-		08 01	448.68
FEE - DEBIT ORDER	##	18.00-		08 01	430.68
AUTOBANK CASH DEPOSIT T MATHE H214			1,960.00	08 02	2,390.68

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BANK STATEMENT / TAX INVOICE

PLUSPLAN Account Number 16 000 647 3

Details	Service Fee	Debits	Credits	Date	Balance
BALANCE BROUGHT FORWARD					2,390.68
AUTOBANK CASH DEPOSIT t mathe	H214		540.00	08 02	2,930.68
INSURANCE PREMIUM MOMENTUM SL095893779 8381DU		640.92-		08 02	2,289.76
FEE - DEBIT ORDER	##	18.00-		08 02	2,271.76
AUTOBANK CASH WITHDRAWAL AT 0000A959 2019-08-03T18:14:50 45		1,000.00-		08 03	1,271.76
CASH WITHDRAWAL FEE 160006473	##	21.00-		08 03	1,250.76
AUTOBANK CASH WITHDRAWAL AT 0000A959 2019-08-03T18:15:58 45		1,000.00-		08 03	250.76
CASH WITHDRAWAL FEE 160006473	##	21.00-		08 03	229.76
AUTOBANK CASH DEPOSIT thandeka	H721		5,000.00	08 05	5,229.76
CASH DEPOSIT FEE - AUTOBANK	##	92.50-		08 05	5,137.26
AUTOBANK CASH WITHDRAWAL AT 0000A959 2019-08-04T15:55:00 45		1,000.00-		08 05	4,137.26
CASH WITHDRAWAL FEE 160006473	##	21.00-		08 05	4,116.26
DEBIT CARD PURCHASE FROM SIBAYA CASINO 2019-08-04T18:27:		4,000.00-		08 05	116.26
DEBIT CARD PURCHASE FEE 160006473	##	5.50-		08 05	110.76
ATM CASH DECLINED:BAL PROVIDE	##	2.80-		08 05	107.96
ACCOUNT PAYMENT ABSA-DUR 6525883426		1,902.99-		08 05	1,795.03-
FEE - DEBIT ORDER	##	18.00-		08 05	1,813.03-

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BANK STATEMENT / TAX INVOICE

PLUSPLAN

Account Number 16 000 647 3

Details	Service Fee	Debits	Credits	Date	Balance
BALANCE BROUGHT FORWARD					1,813.03-
RTD-NOT PROVIDED FOR ABSA-DUR 6525883426			1,902.99	08 05	89.96
FEE-UNPAID ITEM	##	58.50-		08 05	31.46
ATM CASH DECLINED:BAL PROVIDE	##	2.80-		08 08	28.66
REAL TIME TRANSFER FROM T 62585067559			1,000.00	08 08	1,028.66
AUTOBANK CASH WITHDRAWAL AT 0000A958 2019-08-07T21:07:58 51		800.00-		08 08	228.66
CASH WITHDRAWAL FEE 160006473	##	16.80-		08 08	211.86
CREDIT INTEREST			2.31	08 07	214.17
AUTOBANK CASH WITHDRAWAL AT 0000A958 2019-08-07T23:17:24 51		100.00-		08 08	114.17
CASH WITHDRAWAL FEE 160006473	##	2.10-		08 08	112.07
AUTOBANK CASH DEPOSIT JGZF 0706			100.00	08 08	212.07
CASH DEPOSIT FEE - AUTOBANK	##	1.85-		08 08	210.22
AUTOBANK CASH DEPOSIT DIPS 4895			3,600.00	08 08	3,810.22
CASH DEPOSIT FEE - AUTOBANK	##	66.60-		08 08	3,743.62
DEBIT CARD PURCHASE FROM SIBAYA CASINO 2019-08-08T19:34:		3,000.00-		08 10	743.62
DEBIT CARD PURCHASE FEE 160006473	##	5.50-		08 10	738.12
AUTOBANK CASH WITHDRAWAL AT 0000A959 2019-08-09T16:15:27 51		500.00-		08 10	238.12
CASH WITHDRAWAL FEE 160006473	##	10.50-		08 10	227.62

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BANK STATEMENT / TAX INVOICE

PLUSPLAN Account Number 16 000 647 3

Details	Service Fee	Debits	Credits	Date	Balance
BALANCE BROUGHT FORWARD					227.62
AUTOBANK CASH WITHDRAWAL AT 0000A958 2019-08-11T18:20:58 51		100.00-		08 12	127.62
CASH WITHDRAWAL FEE 160006473	##	2.10-		08 12	125.52
ATM CORRECTION CLEARED FUNDS ATM 4271 08/08/2019			1,400.00	08 12	1,525.52
AUTOBANK CASH WITHDRAWAL AT 00001820 2019-08-14T23:47:37 51		1,000.00-		08 15	525.52
CASH WITHDRAWAL FEE 160006473	##	21.00-		08 15	504.52
AUTOBANK CASH WITHDRAWAL AT 00001820 2019-08-15T01:10:37 51		350.00-		08 15	154.52
CASH WITHDRAWAL FEE 160006473	##	8.40-		08 15	146.12
REAL TIME TRANSFER FROM T 62766065025			3,000.00	08 17	3,146.12
AUTOBANK CASH WITHDRAWAL AT 0000A959 2019-08-17T15:47:36 51		3,000.00-		08 17	146.12
CASH WITHDRAWAL FEE 160006473	##	63.00-		08 17	83.12
AUTOBANK CASH DEPOSIT NGWENYAN A402			600.00	08 19	683.12
CASH DEPOSIT FEE - AUTOBANK	##	11.10-		08 19	672.02
AUTOBANK CASH WITHDRAWAL AT 0000A958 2019-08-17T19:14:55 51		600.00-		08 19	72.02
CASH WITHDRAWAL FEE 160006473	##	12.60-		08 19	59.42

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BANK STATEMENT / TAX INVOICE

PLUSPLAN Account Number 16 000 647 3

Details	Service Fee	Debits	Credits	Date	Balance
BALANCE BROUGHT FORWARD					59.42
AUTOBANK CASH DEPOSIT SANE	0706		700.00	08 19	759.42
CASH DEPOSIT FEE - AUTOBANK	##	12.95-		08 19	746.47
AUTOBANK CASH WITHDRAWAL AT 0000A958 2019-08-19T18:07:09 51		500.00-		08 19	246.47
CASH WITHDRAWAL FEE 160006473	##	10.50-		08 19	235.97
AUTOBANK CASH DEPOSIT shamilah	0706		3,000.00	08 20	3,235.97
CASH DEPOSIT FEE - AUTOBANK	##	55.50-		08 20	3,180.47
AUTOBANK TRANSFER TO ACCOUNT 578441437782 16H29 441320710		1,200.00-		08 20	1,980.47
FEE-INTER ACCOUNT TRANSFER 160006473	##	5.50-		08 20	1,974.97
AUTOBANK CASH DEPOSIT d myeni	0706		6,400.00	08 21	8,374.97
CASH DEPOSIT FEE - AUTOBANK	##	118.40-		08 21	8,256.57

These fees include VAT at 14% up to 31 March 2018 and at 15% from 1 April 2018.

Interest Calculation

Date Posted	Date From	Date To	Days	Capital	Rate	Interest
2019/08/07	2019/07/06	2019/07/07	2	47,788.92	0.200 %	0.5237
2019/08/07	2019/07/08	2019/07/18	11	27,772.42	0.200 %	1.6740
2019/08/07	2019/07/30	2019/07/30	1	20,192.18	0.200 %	0.1106
Total						2.31

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BANK STATEMENT / TAX INVOICE

PLUSPLAN

Account Number 16 000 647 3

VAT Summary

Total charge amount (excluding VAT)	911.25 -
Total VAT	136.75 -
Total charge amount (including VAT)	1,048.00 -

Copy Statement.

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VAT Reg No. 4100105461 Registered credit provider (NCRCP15).
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Standard Bank

00160006473S

EMPANGENI
SHOP 11A, EMPANGENI S/PO BOX 61577
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21 September 2019

MS DC MYENI
PO BOX 30527
RICHARDS BAY
3900

EMPANGENI 7530
Monthly NO PRINT

Statement No 9
VAT Reg. No.
Page 1 of 6

Statement Frequency Monthly
Statement from 21 August 2019 to 21 September 2019

BANK STATEMENT / TAX INVOICE

PLUSPLAN Account Number 16 000 647 3

Month-end Balance R 5,510.21

Details	Service Fee	Debits	Credits	Date	Balance
BALANCE BROUGHT FORWARD				08 21	8,256.57
CREDIT TRANSFER CASHFOCUS SALARY 200257			7,889.76	08 22	16,146.33
DEBIT CARD PURCHASE FROM SIBAYA CASINO 2019-08-24T21:52:		5,000.00-		08 26	11,146.33
DEBIT CARD PURCHASE FEE 160006473	##	5.50-		08 26	11,140.83
DEBIT CARD PURCHASE FROM SIBAYA CASINO 2019-08-25T22:38:		5,000.00-		08 26	6,140.83
DEBIT CARD PURCHASE FEE 160006473	##	5.50-		08 26	6,135.33
CASH DEPOSIT JGZF			1,000.00	08 27	7,135.33
CASH DEPOSIT FEE - BRANCH 00160006473 GATEWAY	##	27.00-		08 27	7,108.33
DEBIT CARD PURCHASE FROM Clicks Umhlanga NCCL 2019-08-28		335.62-		08 28	6,772.71
DEBIT CARD PURCHASE FEE 160006473	##	5.50-		08 28	6,767.21
AUTOBANK CASH WITHDRAWAL AT 0000A958 2019-08-28T19:48:30 45		3,000.00-		08 29	3,767.21
CASH WITHDRAWAL FEE 160006473	##	63.00-		08 29	3,704.21
SERVICE AGREEMENT SCB -GFUNERALAB1375		119.00-		08 30	3,585.21
FEE - DEBIT ORDER	##	18.00-		08 30	3,567.21

These fees include VAT at 14% up to 31 March 2018 and at 15% from 1 April 2018.

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BANK STATEMENT / TAX INVOICE

PLUSPLAN Account Number 16 000 647 3

Details	Service Fee	Debits	Credits	Date	Balance
BALANCE BROUGHT FORWARD					3,567.21
AUTOBANK CASH DEPOSIT 1234	E900		2,000.00	08 31	5,567.21
CASH DEPOSIT FEE - AUTOBANK	##	37.00-		08 31	5,530.21
MONTHLY MANAGEMENT FEE	##	20.00-		08 31	5,510.21
AUTOBANK CASH DEPOSIT INSOR	E900		2,600.00	09 02	8,110.21
DEBIT CARD PURCHASE FROM SIBAYA CASINO 2019-09-01T18:51:		5,000.00-		09 02	3,110.21
DEBIT CARD PURCHASE FEE 160006473	##	5.50-		09 02	3,104.71
DEBIT CARD PURCHASE FROM SIBAYA CASINO 2019-09-01T19:41:		3,000.00-		09 02	104.71
DEBIT CARD PURCHASE FEE 160006473	##	5.50-		09 02	99.21
AUTOBANK CASH DEPOSIT THA	0706		3,200.00	09 02	3,299.21
CREDIT TRANSFER OMSUREPMNT_31890301			2,157.62	09 02	5,456.83
DEBIT TRANSFER VODACOM 0320480677 I3115102		710.00-		09 02	4,746.83
FEE - DEBIT ORDER	##	18.00-		09 02	4,728.83
INSURANCE PREMIUM MOMENTUM SL095893779 8709YU		640.92-		09 02	4,087.91
FEE - DEBIT ORDER	##	18.00-		09 02	4,069.91
INSURANCE PREMIUM HOLLARD HOL4083271 190901		831.00-		09 02	3,238.91
FEE - DEBIT ORDER	##	18.00-		09 02	3,220.91
DEBIT CARD PURCHASE FROM SIBAYA CASINO 2019-09-02T21:47:		3,000.00-		09 03	220.91

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Statement from 21 August 2019 to 21 September 2019

BANK STATEMENT / TAX INVOICE

PLUSPLAN Account Number 16 000 647 3

Details	Service Fee	Debits	Credits	Date	Balance
BALANCE BROUGHT FORWARD					220.91
DEBIT CARD PURCHASE FEE 160006473	##	5.50-		09 03	215.41
AUTOBANK CASH DEPOSIT TYS	4895		2,300.00	09 03	2,515.41
CASH DEPOSIT FEE - AUTOBANK	##	42.55-		09 03	2,472.86
DEBIT CARD PURCHASE FROM SIBAYA CASINO 2019-09-03T22:33:		2,000.00-		09 04	472.86
DEBIT CARD PURCHASE FEE 160006473	##	5.50-		09 04	467.36
ACCOUNT PAYMENT ABSA-DUR 6525883426		3,805.98-		09 05	3,338.62-
FEE - DEBIT ORDER	##	18.00-		09 05	3,356.62-
RTD-NOT PROVIDED FOR ABSA-DUR 6525883426		3,805.98	09 05		449.36
FEE-UNPAID ITEM	##	58.50-		09 05	390.86
REAL TIME TRANSFER FROM T 62585067559		10,000.00	09 07		10,390.86
AUTOBANK CASH WITHDRAWAL AT 0000A959 2019-09-06T22:13:21 51		5,000.00-		09 07	5,390.86
AUTOBANK CASH WITHDRAWAL AT 0000A959 2019-09-08T18:53:02 51		4,000.00-		09 09	1,390.86
CASH WITHDRAWAL FEE 160006473	##	84.00-		09 09	1,306.86
CASH DEPOSIT DC MYENI		8,500.00	09 10		9,806.86
CASH DEPOSIT FEE - BRANCH 00160006473 DURBAN NORTH	##	165.75-		09 10	9,641.11
AUTOBANK CASH DEPOSIT THABI	4895	5,000.00	09 10		14,641.11

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Statement from 21 August 2019 to 21 September 2019

BANK STATEMENT / TAX INVOICE

PLUSPLAN Account Number 16 000 647 3

Details	Service Fee	Credits / Debits	Date	Balance
BALANCE BROUGHT FORWARD				14,641.11
CASH DEPOSIT FEE - AUTOBANK	##	92.50-	09 10	14,548.61
AUTOPLUS PAYMENT TO STN TRUST REN 0904		9,500.00-	09 10	5,048.61
FEE-ELECTRONIC ACCOUNT PAYMEN 160006473	##	6.86-	09 10	5,041.75
DEBIT CARD PURCHASE FROM SIBAYA CASINO 2019-09-10T19:32:		4,000.00-	09 11	1,041.75
DEBIT CARD PURCHASE FEE 160006473	##	5.50-	09 11	1,036.25
CREDIT TRANSFER CASHFOCUS CENTLEC SOC		11,279.81	09 10	12,316.06
CREDIT TRANSFER CASHFOCUS CENTLEC SOC		11,279.81	09 10	23,595.87
AUTOBANK CASH WITHDRAWAL AT 0000A958 2019-09-10T21:29:47 51		1,000.00-	09 11	22,595.87
CASH WITHDRAWAL FEE 160006473	##	21.00-	09 11	22,574.87
IB PAYMENT FROM LOAN		30,000.00	09 12	52,574.87
AUTOBANK CASH WITHDRAWAL AT 0000A959 2019-09-12T19:15:48 51		3,000.00-	09 13	49,574.87
CASH WITHDRAWAL FEE 160006473	##	63.00-	09 13	49,511.87
CASH WITHDRAWAL 13.52.25 DURBAN NORTH		15,000.00-	09 13	34,511.87
FEE TELLER CASH WITHDRAWAL	##	360.00-	09 13	34,151.87
DEBIT CARD PURCHASE FROM SIBAYA CASINO 2019-09-16T19:41:		5,000.00-	09 17	29,151.87

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Page 5 of 6

Statement Frequency Monthly
Statement from 21 August 2019 to 21 September 2019

BANK STATEMENT / TAX INVOICE

PLUSPLAN

Account Number 16 000 647 3

Details	Service Fee	Debits	Credits	Date	Balance
BALANCE BROUGHT FORWARD					29,151.87
DEBIT CARD PURCHASE FEE 160006473	##	5.50-		09 17	29,146.37
DEBIT CARD PURCHASE FROM NU DENTAL LABORATORY 2019-09-18		5,000.00-		09 18	24,146.37
DEBIT CARD PURCHASE FEE 160006473	##	5.50-		09 18	24,140.87
DEBIT CARD PURCHASE FROM CALINDA ACCUPUNCTURE A 2019-09-		380.00-		09 18	23,760.87
DEBIT CARD PURCHASE FEE 160006473	##	5.50-		09 18	23,755.37
PRE-PAID PAYMENT TO VOD PREPAID 0828756002		500.00-		09 19	23,255.37
FEE - PRE-PAID TOP UP	##	1.20-		09 19	23,254.17
DEBIT CARD PURCHASE FROM CALINDA ACCUPUNCTURE A 2019-09-		470.00-		09 20	22,784.17
DEBIT CARD PURCHASE FEE 160006473	##	5.50-		09 20	22,778.67
AUTOBANK PAYMENT TO CITY OF UMHLAUZE 0710		3,500.00-		09 20	19,278.67
FEE-ELECTRONIC ACCOUNT PAYMEN 160006473	##	6.86-		09 20	19,271.81
CREDIT TRANSFER ABSA BANK Thandeka			3,000.00	09 21	22,271.81

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DD34-DCM-1543

Standard Bank

Hierdie vorm is ook beskikbaar in Afrikaans, vorm 00152505.

PLUSPLAN

102 KOLSTERTKRING

MEERENSEE EXT 18

RICHARDS BAY

3901

STANDARD BANK
GC:REG INSTRUCT MAN
2019-10-11
00-56-06

Statement period 20 days statement
Account preferred centre
Customer contact centre 0860 123 000
Account manager L NGEMA
Telephone
Internet www.standardbank.co.za
Page 1 of 2
Date 11 October 2019
Time 15:40

Account identification

Name of account MS DC MYENI

Account number 160006473

Transaction details

Post date (YYYY-MM-DD)	Transaction description	Fee	Payments	Deposits	Balance
	Statement opening balance				R 19271.81
2019-09-21	CREDIT TRANSFER ABSA BANK Thandeka			R3000.00	R 22271.81
2019-09-23	CREDIT TRANSFER CASHFOCUS SALARY 200257			R7889.76	R 30161.57
2019-09-30	SERVICE AGREEMENT SCB -GFUNERALAB1375		R119.00-		R 30042.57
2019-09-30	##FEE - DEBIT ORDER		R18.00-		R 30024.57
2019-09-30	##MONTHLY MANAGEMENT FEE		R20.00-		R 30004.57
2019-10-01	INSURANCE PREMIUM HOLLARD HOL4083271 191001		R831.00-		R 29173.57
2019-10-01	DEBIT TRANSFER VODACOM 0323167600 I3115102		R710.00-		R 28463.57
2019-10-02	REAL TIME TRANSFER FROM T 62766065025			R20000.00	R 48463.57
2019-10-02	INSURANCE PREMIUM MOMENTUM SL095893779 7598UY		R640.92-		R 47822.65
2019-10-04	AUTOBANK CASH WITHDRAWAL AT 0000D977 2019-10-04T11:49:08 5196120263320904		R1440.00-		R 46382.65
2019-10-04	DEBIT CARD PURCHASE FROM Nandos Broadway 2019-10-04T13:08:03 5196120263320904		R96.00-		R 46286.65
2019-10-04	##DEBIT CARD PURCHASE FEE 160006473		R5.50-		R 46281.15
2019-10-04	DEBIT CARD PURCHASE FROM PHOTO FREEDOM DBN NO 2019-10-04T15:57:23 5196120263320904		R537.50-		R 45743.65
2019-10-04	##DEBIT CARD PURCHASE FEE 160006473		R5.50-		R 45738.15
2019-10-07	CREDIT INTEREST			R5.01	R 45743.16
2019-10-08	DEBIT CARD PURCHASE FROM SIBAYA CASINO 2019-10-07T23:28:01 5196120263320904		R10000.00-		R 35743.16
2019-10-08	##DEBIT CARD PURCHASE FEE 160006473		R5.50-		R 35737.66
2019-10-08	AUTOBANK CASH WITHDRAWAL AT 0000A958 2019-10-08T00:16:07 5196120263320904		R5000.00-		R 30737.66
2019-10-08	AUTOBANK CASH WITHDRAWAL AT 0000A958 2019-10-08T00:17:04 5196120263320904		R5000.00-		R 25737.66
2019-10-08	##CASH WITHDRAWAL FEE 160006473		R105.00-		R 25632.66
2019-10-09	AUTOBANK PAYMENT TO STN TRUST REN 0710		R18500.00-		R 7132.66
2019-10-09	##FEE-ELECTRONIC ACCOUNT PAYMENT 160006473		R6.86-		R 7125.80
	Balance as at 2019-10-09				R 7125.80

The Standard Bank of South Africa Limited (Reg. No. 1962/000738/06) An authorised financial services and registered credit provider (NCRCP15).

"ANNEXURE LUZ 11 "229
20 June 2013 549

SOUTH AFRICAN AIRWAYS

South African Airways
Office of the Chairperson
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Airways Park
Jones Road
Kempton Park

Private Bag X13
OR Tambo International Airport
Tel: 27 11 978-2529
Email: [redacted]@flysaa.com

Minister Malusi Gigaba, MP
Department of Public Enterprises
InfoTech Building
1090 Arcadia Street
Hatfield

20 June 2013

Dear Minister

SECTION 54 UPDATE ON NOVATION OF A320 ORDER

Reference is made to the attached letter dated 30 May 2013 with regard to the Novation of the Airbus A320 Order.

We would like to update the Minister on the award of the sale-and-leaseback of aircraft to Pembroke Capital. Whilst reference is made to ten (10) aircraft in the previous correspondence, the Board has subsequently resolved to transact on two (2) aircraft with Pembroke to allow SAA to further explore engaging local financiers, such as the Development Bank of Southern Africa, Public Investment Corporation, Shariah Bank and others.

The lease agreement for the initial aircraft to be delivered in June and July 2013 respectively is hereby attached.

Related to the above matter, and subsequent to correspondence sent to the Minister on 18 June 2013, pertaining to the anticipated delay of delivery of the first A320, Airbus has reported that the SAA A320 has suffered hail damage. Airbus has therefore requested indulgence from SAA to deliver the aircraft a week later to afford them the opportunity to effect repairs, thereby absolving the company from any financial exposure. It would seem that the natural disaster has answered our prayers.

We hope the Minister finds the above in order

Yours sincerely,

Ms Dudu Myeni
SAA Acting Chairperson

Directors

DC Myeni* (Acting Chairperson), M Kalawe (Chief Executive Officer), WH Meyer (Chief Financial Officer), A Khumalo*, N Kubeka*, Y Kumbana*; R Lepele*, A Mabizela*, S Mpondo*, R Nkabinde* (Indian), LG Nkosi-Thomas*, G Rootman*

*Non-Executive Director

Company Secretary – Isandla Dipeme

South African Airways SOC Ltd Reg. No. 1997/022744/30

A STAR ALLIANCE MEMBER

245

"Annexure C365 15"

13/2/2014

To the Non-Executive Directors,

Response to the Letter : Leadership Challenges

I refer to the memorandum addressed to me and copied to the Honourable Minister dated the 28th January 2014 and delivered to me on the 6th February 2014.

At the outset it needs to be stated quite clearly, for the reasons that will follow, that the memorandum under reply is clearly mischievous, disruptive, divisive and defamatory. Further the *bona fides* of its authors need to be carefully considered as it is clear that the baseless accusations must have some motivation that is not immediately apparent.

I shall deal with the matters that you raise in the same order:

1. **Special Board meeting ("introduction")**
   1.1. As is clear I was not at the Special Board meeting called for the 22nd January 2014 due to a surgical procedure that I was due to undergo. That special meeting did not have as an agenda item any reference to the "conduct of the Chairperson of SAA". It appears that this was raised under "general" by one of your number. The discussion proceeded in my absence with the call that my leadership "must be put to a stop". Fortunately there were board members present that pointed out that this discussion was improper as I was not present and had not been given the opportunity to hear and respond to the allegations raised by your group. Some "witch hunt" (as described in an email to me) was persisted with but ultimately was halted by the remainder of the Board. The discussion was then postponed to the 29th January when I would be present. In is notable that your memorandum speaks about good ethical governance and proper procedure when the same persons with premeditation create a window to sow seeds of dissention amongst the Board against the Chairperson under the pretext of the IoD report.
   1.2. You then turn to the further Special Board meeting called for the 29th January 2014 - intended to continue the conversation started in my absence.
   I have subsequently dealt with this in writing to the Board and I made clear why is was improper to serve notice on me to attend a
   "special" board meeting a few days hence for which there was one item on the agenda being "Board leadership" and for which I was expected to lead. As you well know I was not informed of what this pertained to, or I what I should prepare for. In retrospect this was yet another attempt to create an opportunity by its promoters for a "witch hunt". The methodical and relentless attempt to demean me and disrupt the governances of the board is unbecoming of an organisation such as SAA.
   1.3. I am more than happy to meet to discuss your concerns, even if they are partisan with motives obscure to me at present but it must be done openly and honestly and with one single purpose – to benefit the organisation.

AB DCM

2. **The "Challenge"**

Besides restating the obvious and clear mandate of the Minister for which we have all endorsed, your statement is more a reflection of your intent than any matter of substance. Your reference to "resolution" of the board is presumed to be one of not understanding the term rather than anything more sinister.

2.1. Undermining the narrow body fleet financing process

2.1.1. I intend to deal with this in two ways. Firstly to draw the Minister's attention to what is clearly evidence of some contrived attempt to demean me and then secondly to deal with the matters of substance that you raise.

2.1.2. The thrust of this allegation is that I repeatedly sort to disrupt the resolutions of the board. This is clear by your reference to "1st attempt", "2nd attempt" and so on. If we consider just the first 3 "attempts". The first is that prior of the meeting I sort to clarify from the company secretary the conclusions of the discussions on the. The second is to raise a question at the board meeting during the discussion on the very matter under discussion of issues raised by the executive subsequent to the 27th. The third was to ask the company secretary to provide me with the verbatim recordings of what was discussed on the 2nd.

How, you as a collective, fail to distinguish what is the right and proper legal and fiduciary responsibilities of a director (when committing the organisation to what was likely to be its biggest financial commitment in the last decade) with an attempt to disrupt the workings of the board leave me concerned that we don't all understand our responsibilities similarly.

2.1.3. As to the "4th attempt" I have no knowledge of what you allege. However what I do confirm is that when I was required to sign the S54 notice, I was presented with – at the same time, two contracts - one for each of the two specified aircraft that we were committed to. I was not going to sign conflicting documents without referencing this anomaly with the Company Secretary. Once that was clarified I signed the document presented to me.

2.1.4. I have no knowledge of on the events of the 8th July.

2.1.5. I now wish to turn to the substance of this matter. In context this process was started and interrupted under the previous board. When it recommenced the Minister made it abundantly clear that he would not consider a transaction that did not take account of the need for localisation of services. Implicit in this, including very specific guidance and introductions (DBSA etc) was to ensure benefits flowed to the local market and that we would limit the risk of the exchange rate fluctuations. At this same time the DBSA had entered discussions to fund in parts the first two, the remaining eight and potentially the final ten aircraft. We are obliged to strive for the best possible funding and one that

reduces exchange rate risk is clearly one worth pursuing. I am not convinced by the documentation that delays actually caused material losses but I can be sure that the exchange rate consequences are material and that we live with them for a long time. I am not about to shirk my responsibilities for expediency. A transaction of this magnitude must be considered and if necessary considered again. I will not be party to causing a financial risk to SAA nor embarrassing the Minister in the process. I will question until I am satisfied that we have done the right thing. It is something I term "substance over form".

2.1.6. It is also to be noted that the Proposal was only received 30th April 2013 and the CFO only finalized the tender documentation 7th May. Hardly my doing.

2.1.7. I always believe a little knowledge can be dangerous. I suggest you might have misunderstood the application and purpose of S27.5.

2.2. Wide Body Procurement Process

2.2.1. Your observations are unfortunately inaccurate if not mischievous.

2.2.2. For a start the LTTS makes clear the requirement for the replacement of the wide body fleet. Something that you were very much part of and could not possibly claim to be unaware of and had approved in principle.

2.2.3. On the 16th April 2013 the then Acting CEO wrote to myself and Mr Khumalo (a signatory of this memorandum) discussing inter alia, aspects of the procurement process. Mr Khumalo responded and copied myself essentially agreeing with the thrust of the memorandum.

2.2.4. Secondly you received the board pack and were present at the Board meeting on the 27th may 2013. The reopening of the bidding process was discussed and minuted at that meeting and you could not possibly have all missed that.

2.2.5. On the 24th July the Minister indicated that he was unhappy with the RFP and asked for it to be withdrawn and amended. This was done by the Board on the 24th August;

2.2.6. The Executive then revised the RFP process and submitted it to the LTTSC. It was then later in September referred to the board.

2.2.7. I should also remind you that it was the Minister himself who provided clear instruction on the localization benefits to be obtained through this process – one can hardly suggest one was not fully aware of what that process was.

2.2.8. I might need to remind my colleagues that the standard operating process, once the principles are agreed (which they were) for the executive to handle the RFP process. We as a board are not involved in that process. In this case the Executive had made a prior presentation to the DPE pertaining to the RFP.
If the "concerned" board members, some of whom serve on the A&RC do not like the current process then it is right and proper to raise it and have it tested (which I recall was subsequently done). But it is mischievous to lay blame at my door and

DEM

it is quite wrong to infer that you did not know and agree that the process would follow.

2.2.9. The PFMA is referenced a number of times in your memorandum. While this is not the place to provide guidance, I might mention that the Act states that approval must be obtained prior to concluding a transaction envisaged. It does not require the executive to seek approval to begin a process which logically would, at its culmination, provide content and context to a request for approval. You might also refer yourselves again to the MOI from which you incorrectly quote.

2.2.10. Finally I might remind you that the PTPC is itself subject to board oversight.

2.3. Losses occasioned by the Chairpersons procrastinations

2.3.1. Clearly delays were suffered that potentially incurred losses but how this can be attributed to myself is less so.

2.3.2. The claimed quantum (R800m) of the supposed related financial loss and the presented reason therefore, reflects either mischievous intent on the part of the authors or a lack of understanding of the finance structure and its inter-relation to the original equipment manufacturer (in this case, Airbus).

2.3.3. To the extent that the Chairperson of the PTPC process was not able to timeously convene a Board meeting is extraordinary, particularly when the same is able to summon an extraordinary meeting to debate a matter such as the IoD report.

2.3.4. It also loses sight of the Minister having intervened the process to ensure adequate effort has been applied to secure local funding, in-line with broader Government policy.

2.4. Investigations

2.4.1. Mr. Khumalo. It was brought to my attention that Mr Khumalo had instructed a member of the executive to represent him at a PwC conference for purposes of elaborating on the (then as yet unapproved) LTTS. The said PwC meeting was broader than "our auditors" and in deed, global aviation industry partners were present. The dissemination of our strategic document was not approved by the Board and the allegations of a security breach needed – for at least good governance purposes, to be enquired into. This was done and I understand the conclusions are that there was no risk to the organisation. If I am to be criticised for ensuring the integrity of our company then I am prepared to accept that but I will not be deterred by the fact that one of your number might be a figure in the investigation;

2.4.2. Mr Mabizela. I am not aware of any specific investigation into Mr Mabizela. However in so far as the alleged loan to SAX is referenced I can assure you I am concerned. What surprises me is your collectives' defence of that enquiry. At the outset this investigation was authorised by the Board on the 28th November 2013.

It is not my investigation but that of the board of SAA. On the information before me, the Minister requested SAA to consider a repayment holiday for SAX – it was not a recommendation or an instruction, it merely alerted SAA to the difficulties of SAX. What happened next was this was approved, without reference to the Board. I am advised that this followed discussions between Mr Mabizela, Mr Kona and the CFO. All three ought to have been acutely aware that loans by SAA to SAX without compliance with the PFMA are simply unlawful. Whatever one wishes to call this, it was a loan of over R100 million for a period of 12 months. The enquiry has not been completed (it has taken internal audit two and a half months and it is still under investigation) and we are yet to discern the facts and legal implications. As yet, Mr Mabizela, in his capacity as SAA Board member, has failed to shed light on his apparently conflicted role in this regard, raising questions as to the standard of disclosure being applied. However in spite of your seeming criticism of me raising the matter before the Board, I shall not shirk of my duties and I will not be party to a breach of the law regardless of your efforts. I ought to pause and reflect that amongst you are members of the A&RC who amongst us all ought to have seized upon this and requested an enquiry. The fact that it was brought to our attention through a Business Day report does not auger well for our oversight.

2.4.3. The CEO. The current enquiry that I have asked the Chair of the A&RC is to initiate is an anonymous whistle blower report received by me. What followed was a tirade from amongst your number, not about the merits of the matter, but opposition to an independent investigation. Interestingly it appears that it is this matter that brought your concerns to a head and prompted your memorandum. I am at difficulty to understand why this was so vehemently opposed, but I will attempt to do so.

I do not intend to repeat what is already known but the allegations were extremely serious. They went to the core of the organisation and alleged what might amount to a conspiracy amongst the executive and members of the Board against itself. Suffice to say that any investigation into the Chairperson without Board or shareholder approval is unlawful and improper. To the extent that it consumed SAA resources it is also wasteful expenditure.

It must be quite obvious to anyone, that if there was to be an investigation into these allegations, an internal one was potentially conflicted.

Firstly, it implicates the leadership of the executive to which internal audit reports. Secondly, if there had been any internal investigation by the executive into the Chairperson as alleged, it would likely have used the resources that would be charged with this investigation.

DCM

Thirdly, the allegations touch on members of the Board and it appears reasonable to me to think that Board members would jump at the opportunity to have any inference directed at themselves to be exonerated by a credible enquiry. Fourthly, the report itself states that its authors previously submitted an anonymous report but it was not acted upon, hence their new angle of approach. If this is so why are we intent on referring back to the same office? Finally, it is plain to me and the chair of A&RC and no doubt to all members of the A&RC that IA lacks the skills and resources to undertake the type and volume of work that is referred to it. There are many very serious investigations currently being actioned by IA which are outstanding for months and/or have been referred back for proper enquiry. I might add that at IA's own request the Company has gone out to tender to retain the services of a forensic auditor with specified investigatory skills that are lacking in the organisation. Yet we insist that we labour them with more.
I heard not one voice of concern or alarm as to these allegations. To the contrary it was met robustly with a defence of an internal process which is quite clearly inappropriate in the circumstances. What is it that we oppose?

These same persons ought reasonably to know of the weaknesses in a process that they stridently prefer.

Firstly, the policy only permits an investigation of a report that is received through the official whistle blower channel. Heaven forbid that someone alerts us to an impending tragedy and is met with that response – sorry wrong process! Secondly, it requires the CAE to consider merits of the allegations and if in his sole and absolute opinion, to disregard it. No reference to his superior or the A&RC is required. It is merely dumped. Thirdly, the policies themselves are severely conflicted. One only has to reference the policy for Group Security Services and Internal Audit to realise that these were not well coordinated. Fourthly, it is bizarre for a policy to blindly insist that one is required to investigate one's seniors in the organisation. What reasonable person does not understand what conflicts and pressures this might bring? Fifthly, the person who is responsible for the execution of the policy is also the custodian of the formal copy of the policy. It is not surprising that the "formal" copy of this policy that is so strongly protected now is not signed as required and clearly, upon reference to it, its latest version control is dated prior to the Board meeting that approved amendments to it. Lastly, it is known by all members of the Board that recent enquiries that followed this process were not altogether sufficient and professional.

How is it then that those amongst you and also members of the A&RC charged with this governance are so less concerned to exercise the required oversight than to insist on a process which requires reflection.

DEM

DD34-DCM-1551

I turn finally to what concerns me most and that is what appears to be a complete lack of understanding of the lawful requirements of our office. How is it that those among you have the understanding that a Director is precluded from exercising their legal obligations because a process regime was delegated to a lower structure? The Companies Act, the PFMA, the MOI and the Board Charter all make plain that the Board remains accountable notwithstanding any delegation. How so in this instance is it convenient to ignore that and rather label the exercise of that duty as "undermining the Board and its resolutions"? I would like to understand the rationale and motive but my perception is that it is intended to induce me not to pursue what I regard as my lawful duty.

2.5. Board committees

2.5.1. As you correctly point out I am permitted to attend committee meetings. Certainly I am not a member of these committees but to infer that I am not being permitted to voice a view is bizarre. The responsibility on us is immense and diligence is a quality we all require. Why may I ask is there this clamour to prevent openness and transparency. If there is a fear at all, it must be this.

2.5.2. <u>The CEO performance contract</u>. This I presume is distinct from the employment contract.

2.5.2.1. The complaint that the performance contract was entered into by me, assisted by Chair of Remco" without the HR and Remco members and the Board having had sight and having approved the contract is a shock and bizzare:

2.5.2.2. As I understand the position, Remco deliberated on this matter from as early as 9 May 2013 in anticipation of the CEO Designate at the time assuming duty on 1 June 2013. May I quote from an email circulated to Remco members, the Company Secretary and GM:HR:

"... the CEO Designate must not commence with his duties until the contract of employment has been signed. That contract should include a performance agreement with the Board which shall include the activities, performance measures, and targets specified in the Shareholder Compact, Corporate Plan as well as the government's strategic intent of SAA communicated from time to time. Based on the above and the remainder of Para 3 of the Guidelines, we have as RemCo to agree the terms of the performance agreement, table same to the Board and authorise Chair to action accordingly before 1 June 2013 being the date on which I am informed the CEO Designate shall assume office.

DCM

May I request Ms Mpshe and the Company Secretary to action this item urgently by developing a Draft Performance Agreement in line with inter alia para 3 of the Guidelines. When that has occurred to kindly circulate a round robin request in that regard to RemCo. Once carried circulate to the Board accordingly.
I would be grateful if this process could be concluded by Friday 17 May 2013."

2.5.2.3. The process having been put in motion by RemCo Chair, GM: HR and the Company Sec (see the email attached hereto) advised that the Board had to wait for the finalisation of the LTTS before the performance contract could be concluded. This needless to say created some confusion and significant delays. The other members of Remco were at all times fully informed of these. I quote yet again from relevant email correspondence from GM:HR dated 9 May 2013 and Company Secretary dated 21 May 2014 respectively:

"Process will require that the LTTS be signed off by the Minister and translated into the Shareholders Compact by CEO and Chair of the board. It will then be the CEO's responsibility to translate the Shareholders compact into the corporate plan which will become the BSC of the CEO. In light of the fact that the LTTS is not fully signed off by the shareholder, it will be prudent for the Chair of the board and the LTTS committee to get sign off so as to get the process outlined above into gear." ...
"The LTTS, shareholder compact and corporate Plan are critical to the CEO's contract. It will be difficult to draft an appropriate performance contract before the revision of these documents is finalised."

2.5.2.4. The above resulted in an interim performance contract being concluded pending the finalisation of the LTTS and the Shareholder Compact. RemCo members were at all times aware of this. I quote from RemCo Chair's email to members in that regard:
"So, as previously stated, I request that a draft performance agreement be prepared by yourselves based on the current Compact. In due course, an addendum will be prepared to cater for changed circumstances i.e. the adoption of the LTTS.
I await your speedy assistance in this regard."

2.5.2.5. Remco has deliberated on this matter on numerous occasions. This matter was similarly reported to the Board on many occasions. The minutes of the Board will bear this out. It is disingenuous in the extreme to now plead complete ignorance of these.

2.5.2.6. Remco has since ratified all prior steps in this regard and is currently reviewing a new performance contract to be executed soon now that the Shareholder Compact and the LTTS processes are complete.

DCM

DD34-DCM-1553

Please see Company Secretary's opinion piece in this regard and the relevant Remco minutes.

2.5.2.7. Accordingly, the complaint raised in this regard is disingenuous in that you have access to the same information which if you had bothered (being so concerned) would have independently established. Why you rather preferred to falsely vilify me in concerning.

2.5.3. On an aside the CEO contract has been with the CEO since he commenced duties and despite his undertakings, via email, to sign it promptly, he has failed to do so. That should also alarm some of you about our collective leadership. The Question I thought we should ask ourselves as a collective; is why the CEO only signed in September 2013; and when his assessment will be done for his first six months in office.

2.6. Board Inefficiencies

2.6.1. Board administration. Again this is bizarre. The number of times members amongst you have directed discussions away from critical issues is plain to see. Let me use one example when, rather than address the narrow body transaction that was placed before the board, members including some of you, insisted on a lengthy debate about the performance of another colleague. How, when there are critical matters before the Board do we wish to rather debate IoD matters as a pretext to undermining the position of the Chair? There are many examples to recite but not for here.

2.6.2. Preparation for the 2013/4 AGM. This was discussed at the September DPE meeting and referenced again with the DPE on the 18th December 2013. But your complaint appears not about the AGM but about the IoD report. If the AGM agenda and preparation is of such concern I would imagine that the IoD report is less significant to address at this time than the financial state of the company – something that appears to be missed in all these pages.

2.6.3. The IoD report. This goes to the crux of this memorandum. It is not about the company or the company's performance it is about the role of the Chair. I have addressed this with you all in writing. What I find concerning is that none of you have perceived that the credibility of this report is the sum total of your own subjective views - provided through tick-box questionnaires.
This is not an objective review of the Board's performance. It is your own views - similar to the theme addressed in this memorandum. I have made the point that it was alarming that none of you attended the IoD interviews that were prearranged with you - and on more than one occasion. That process would have coached out issues that really trouble you but that process was ignored and the Company is poorer for that. This report is of no greater value than you own aggregated views which portray a group bias, lack of objectivity and independence.

AB DCM

How is it that a group of six gather to aggregate a view rather than address it openly and transparently? This step is merely the most recent of numerous earlier attempts to proffer your views – see above.

2.6.4. Narrow body transaction.

2.6.4.1. Part of this delay was caused by the Acting GM, Legal, Risk and Compliance having circulated a memorandum on the 24th May drawing the Board's attention to a number of material transaction risks attached to the Pembroke funding;

2.6.4.2. The issue of two as opposed to 10 was also raised before by Chair and the CFO produced some answers that were also presented to the Board. It should also be noted that the Board submission for the 27 May/2 June 2013 Board meeting specifically highlighted delivery risk of two aircraft (not ten);

2.6.4.3. These were debated again on the 2nd June and the company records will show that it was only on the 13th June that the Company Secretary made available a resolution for the funding of 10 aircraft through Pembroke – some 2 weeks after the initial meeting on the 27th May.

2.6.4.4. Two contracts for the two immediate aircraft were presented to me with the application for the Minister. I referred these back as they were inconsistent with each other – am I authorising two or ten.

2.6.4.5. However notwithstanding these facts there is a context which the author's appear to forget.

Prior to the May meeting in fact as early as 2012, the then Board had – in compliance with the Shareholder State Development Agenda sort proposals from internal FDIs. After these failed, the external net resulted in a preferred proposal being received from the Bank of China. That proposal was short-lived due to the negative publicity of the former Board's resignation resulting in the Bank of China amending its terms, resulting in the CFO, after advice from SAA Procurement, reverting to the second and third-placed bidders from the original tender process. This produced one bid by Pembroke for up to 10 aircraft and another from the ICBC for 2 aircraft. I am sure the benefits of an internally funded transaction do not escape the authors of the memorandum.

2.6.4.6. It was these competing bids that led me as Chairperson, on about the 20th May (prior to the meeting) to issue a query on the two aircraft of one bid and the other for "up to" ten. To this the CFO circulated a note on the 22nd May 2013 to the board dealing with these competing. Coupled with this was the note GM Legal and risk referred to above;

2.6.4.7. To the extent that I engaged these issues through the Board were right and proper and my legal and fiduciary responsibility.

DCM

I will not be swayed from that duty by ill-considered pressure from those intent on a hasty decision that might endanger the organisation and cause reputational risk to the shareholder. I might remind my colleagues that this transaction carried a value US$456 million, the biggest transaction by any SAA Board in recent times and something that the Shareholder would bear ultimate political and reputational risk. It does require careful consideration.

2.6.4.8. The authors are quite right that I did not forward the PFMA cover letter to the Minister of Finance on the 8th May. The very simple reason being that no transaction had been approved by the Board nor would it for almost a month thereafter. What governance the authors would have me pursue must alarm the shareholder and the public at large.

2.6.4.9. It may also be pointed out that, by virtue of authorising 10 aircraft to be funded by a foreign provider, as opposed to the two aircraft dictated by necessity, pressure has been removed from the Executive to pursue the localisation of funding (an express objective in terms of the Company's strategy and the policy objectives of our Shareholder). I would appreciate a view from the Chair of the PTPCSC as to progress made in further engaging with the DBSA, subsequent to 2 June 2013, in progressing their interest as a funding partner, given the close management oversight claimed in the memorandum and the obligation imposed on this Committee in terms of Section 4 of its Charter.

2.7. Disregard for Board Resolutions

2.7.1. There is no substance to what is written and it is merely a restatement of what has preceded this. I can do no more justice to this.

3. Conclusions

3.1. This memorandum is a litany of baseless and bias allegations. It is evident that they are also orchestrated. The pattern of attack goes back for some time and it is my view that this is more an attempt to subjugate those who are perceived to oppose a particular group of persons than of leadership. If it was not me who stood in the gap, who amongst you would.

3.2. The financial performance of this company and its adherence to good and ethical governance must be in the foremost concern of the Minister. This memorandum, couched as it is, is chilling.

3.3. The discussions I expect from my fellow board members, considering our task at hand are amongst others, matters like;

3.3.1. How and where do we source cheaper, local funding for the remaining aircraft;

3.3.2. Where and how do we source cheaper jet fuel;

DCM

3.3.3. How do we negotiate with our suppliers for better terms;
3.3.4. How do we improve our image;
3.3.5. How do we create value for our Shareholder;
3.3.6. How do we keep our employees happy;
3.3.7. How do we satisfy our customers;
3.3.8. How do we deal with high cost of Pilots;
3.3.9. How do we improve our BEE Rating;
3.3.10. How do we accelerate transformation in its true sense;
3.3.11. How do we maintain our impeccable safety record;
3.3.12. How do we accelerate technical skills transfer;
3.3.13. How do we produce more Pilots and Technicians within a short period of time?
3.3.14. How can the Board ensure that we localise big contracts
3.3.15. When the First Black Chief Pilot will be appointed; without apology after 80 years of SAAs existence
3.3.16. Dealing with Top Heavy Structure, which i raise now and again

It would be appreciated if your energy was used in such constructive discussions than to waste it in such a 'witch-hunt'.

What is the common denominator that brings your "concerns" together? That is the question that perplexes me. And beyond this central question, I am saddened that the exact same authors of our LTTS, which is premised on values of governance, oversight and accountability and explicitly notes support for the State's developmental agenda (including localisation of services etc), risk and performance management (financial and otherwise) as central pillars to the future success of SAA, fail to adhere to - and appear to oppose - these principles, less than a year after delivering this watershed strategy. Can those who oppose these principles continue to be charged with pursuing them, or would they be compromised to the extent where they cannot fulfil their Management oversight role?

It is interesting to note to all of you that; we were united before; we achieved many things as a collective. What has divided us; or who and what is the objective? We are yet to know the answers.

Kind regards

Chairperson

South African Airways

DCM

Sheraton

Mr. Nicholas Linnell
South Africa

TAX INVOICE	:	184547
Membership No.	:	
Company Name	:	Central Reservations
Customer VAT No.	:	
A/R Number	:	

Room No.	:	619
Arrival	:	22/09/15
Departure	:	23/09/15
Rate Code	:	BAR
Conf. No.	:	901551374
Group Code	:	
VAT Reg. No.	:	4190147456
Company Reg. No.	:	1994/010800/07
Page No.	:	1 of 1
Cashier No.	:	146

Date	Text			Charges ZAR	Credits ZAR
22/09/15	Accomodation			1,385.00	
22/09/15	1% Tourism Levy *			13.65	
23/09/15	Magnolia Food Breakfast	CHECK# 0015926		275.00	
23/09/15	Magnolia Food Breakfast	CHECK# 0015928		275.00	
23/09/15	Mastercard	XXXXXXXXXXXX4240	XX/XX		1,928.65
			Total ZAR	1,928.65	1,928.65

Balance	0.00	ZAR
Total Incl. VAT	1915	ZAR
Non Vatable	13.65	ZAR
VAT @ 14%	235.18	ZAR
Net Amount	1,679.82	ZAR

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COMMISSION OF INQUIRY INTO STATE CAPTURE

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,

NICO BEZUIDENHOUT

do hereby make the following statements under oath:

1. I am an adult male and was the Acting Chief Executive Officer (ACEO) for South African Airways SOC (SAA) from approximately 10 November 2014 to approximately 10 July 2015.

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 approached by investigators of the State Capture Commission (the Commission) for comment on alleged evidence led by Mr Angelo Agrizzi. Mr Agrizzi's allegation is that Ms Myeni had meetings with Bosasa, at the Bosasa offices, including a

meeting took place at the Intercontinental hotel (at the OR Tambo International Airport) with Bosasa, and that I was present.

4. Firstly, I do not carry any awareness of any meeting Ms Myeni had at Bosasa's offices and was never informed of such. Ms Myeni did however, shortly after I assumed the Acting CEO role at SAA, in November 2015, and at a time when AirChefs experienced operational difficulties (4th quarter 2015), suggest that AirChefs should consider engaging with/getting advice from Bosasa, who she had said, was experienced in providing meals at large scale on a daily basis. They, according to Ms Myeni, had proven this capability in the prison service (and, I'm under correction, I seem to recall she also mentioned hospitals).

5. She advised that the CEO of Bosasa was travelling in Johannesburg (it was on a Saturday morning as I recall) and that she (Ms Myeni) was also in Johannesburg on that day and if I could join them for an introductory meeting at the Inter-Continental Hotel.

6. When I arrived at the Hotel Ms Myeni introduced me to Mr Gavin Watson (as Bosasa CEO) and Mr Angelo Agrizzi (as COO) – I cannot specifically recall but there may have been a third unknown person, but I'm not sure. After introductions, Mr Watson proceeded to do a prayer and then discussions went into general topics and took a religious tone.

7. Without the discussion having any objective (as far as I knew) other than being an introduction, one of the parties (I do not recall which one) referenced SAA's security tender that was in progress at the time and, as I recall, appeared to question whether the tender is being fairly handled. I stated that, whilst I am not directly involved with the

tender, SAA's tender processes entail various checks and balances and that no information had been brought to me to indicate that the process, as far as the security tender, was not being fairly handled.

8. One of the parties (I do not recall which one) then turned to Bosasa's experience in running large-scale canteens and that they may be of assistance in this regards at AirChefs. I advised that the Management team at AirChefs will review all possible suppliers and interventions, as the need to improve Airchefs' delivery was topical amongst the SAA Group Management.

9. The meeting then concluded, as I recall, with Mr Watson asking whether I had any personal security concerns and me advising that no, I had not, and that SAA's Security Division, as is customary for CEO's/Acting CEO's, had performed a security risk assessment at my property. The meeting then concluded.

10. Following the meeting I obtained confirmation from SAA's Head of Security that the then current tender process for SAA security services was being conducted fully compliant to SAA's procurement procedures.

11. I further notified the Airchefs Acting CEO of Bosasa's claimed capability for consideration amongst the other possible service providers/interventions the Airchefs team were considering at the time. I had no subsequent interactions with Bosasa.

DEPONENT

I hereby certify that the deponent has acknowledged that he knows and understands the contents of this affidavit. This affidavit, which was signed and sworn to before me, Commissioner of Oaths, at …St Peter Port… on this the…29th day of …October……. 2020 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:

BEFORE THE COMPANIES TRIBUNAL

DUDUZILE CYNTHIA MYENI Applicant

and

COMPANIES AND INTELLECTUAL PROPERTY COMMISSION Respondent

AFFIDAVIT

I, the undersigned,

DUDUZILE CYNTHIA MYENI

state as follows:

1. I am an adult businesswoman and director of companies, and specifically a director and the chairperson of the board of directors of South African Airways (SOC) Ltd of Airways Park, 32 Jones Road, Kempton Park, Johannesburg.

DCM

2. The facts contained herein are within my personal knowledge unless the context indicates otherwise. The legal submissions are based on advice from my legal advisers.

INTRODUCTION

3. This is an affidavit in support of an application to review and set aside the Compliance Notice issued by the Respondent, dated 28 November 2016 ("the Compliance Notice"), in which the Respondent recorded its conclusion that I had contravened sections 73(7), 73(8) and 76(3) of the Companies Act 71 of 2008 ("the Act").

4. This review is made in terms of section 172 of the Act.

5. At the outset, I deny emphatically that I had contravened the Act and I deny that I have acted wrongfully in a manner inconsistent with my duties as a director. As is explained in detail below, I am not unable to ascertain the legal basis on which the Respondent came to its conclusion that I had contravened the Act, nor have I been able to establish from the Respondent, despite repeated requests, on what facts it relied to reach this conclusion.

6. I am advised by my attorneys that the preamble provided in the Commissioner's covering letter dated the 28th November (which I have assumed to be his reasons) as read with the conclusions reached

DCM

GM

therein are irrational and inconsistent with the sections of the Act which I am alleged to have contravened.

7. I assume from our correspondence with the Respondent that it its finding is based on a letter I addressed to the Minister of Public Enterprises dated 20 June 2013 in which I stated that

> *"[w]hilst reference is made to ten (10) aircraft in the previous correspondence, the Board has subsequently resolved to transact on two (2) aircraft…".*

8. That letter was written on my understanding of what the board of SAA had resolved. I subsequently ascertained that I was mistaken, and that the board's decision had not changed, at which point I wrote a further letter to the Minister of Public Enterprises to clarify the situation, which clarification was accepted by the Minister. Subsequently a full independent investigation was undertaken, which concluded with a report which exonerated me. The report was given to both the board and the Minister, and accepted by all parties concerned.

9. In this affidavit, I will first summarise the correspondence with the Respondent up to and after the issuance of the Compliance Notice.

10. I will thereafter explain why the findings by the Respondent in the Compliance Notice are irrational in that no reasonable person could have come to these findings. The findings are all the more perplexing as I had

DCM

GM

repeatedly endeavoured through my attorneys, in vain, to obtain reasons from the Respondent for its findings.

11. I will thereafter show that the procedure by which the Respondent reached its decision was seriously flawed and inconsistent with the provisions of the Act and its regulations.

12. Lastly, I request condonation for the late filing of this application for review, and provide reasons for the delay. I respectfully submit that the requirements of section 172(1)(b) have been met.

CORRESPONDENCE WITH THE RESPONDENT

13. On 11 February 2016 I received a letter from Ms Lana van Zyl, Senior Manager: Governance Surveillance and Enforcement of the Respondent. I attach a copy of the letter marked "DCM1". The letter informed me that the Respondent had, on 5 January 2015, received a request from a certain "M. Turner" to investigate my fitness to be a director ("the letter of complaint") and requested several documents from me pursuant to the request.

14. I responded to that letter on 23 February 2016. I attach a copy of my response marked "DCM2". In my response I noted that the letter of complaint was received more than 12 months prior to the Respondent's letter of 11 February 2016 and drew the Respondent's attention to, *inter alia*, the following facts:

DCM

GM

14.1. An almost identical complaint had been submitted by M Turner to the Independent Regulatory Board of Auditors ("IRBA") on 15 January 2015 which was referred to SAA for comment.

14.2. In response to the complaint, SAA mandated an external independent investigation into the allegations, conducted by Edward Nathan Sonnenbergs Forensics, which culminated in a comprehensive report ("the ENS report") and I attached a copy of the ENS report.

14.3. The ENS report exonerated all those whom M Turner sought to target, including myself.

14.4. The letter of complaint was not *bona fide*'. I pointed out that M Turner had not signed the letter of complaint and that the address of M Turner was an apartment adjacent to that of the former SAA CEO, Mr Monwabisi Kalawe, whose employment had been terminated in acrimonious circumstances.

15. I recorded in the letter my concern that the Respondent's processes were being abused by an unknown person to besmirch my character.

16. On 1 March 2016 I received a letter from Ms van Zyl requesting further documents. I attach a copy marked "DCM3".

17. In a letter to the Respondent dated 9 March 2016, my attorney, Mr George van Niekerk, came on record in the matter. Ms van Zyl

GM DCM

responded to his letter on 10 March 2016. Copies of these letters are attached marked "DCM4" and "DCM5".

18. My attorney wrote to the Respondent on 17 March 2016 to ascertain whether the Respondent was enquiring into the complaint by M Turner or whether a wider investigation had been embarked upon. A copy of this letter is marked "DCM6". In this letter, my attorney specifically asked the following questions:

18.1. Has the Respondent considered my concerns regarding the M Turner complaint?

18.2. Which sections of the Act does the Respondent contend that I have contravened?

18.3. What was the reason for the delay in investigating the M Turner complaint given that the Respondent received the complaint more than 12 months before contacting me? What finally prompted the investigation?

18.4. Had the Respondent received any other complaints into this matter?

19. My attorney noted that the dispute which was the subject of the letter of complaint had already been resolved. He also requested confirmation that the Respondent's enquiry was being undertaken in terms of the Act.

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20. In her reply dated 18 March 2016, Ms van Zyl confirmed that the Respondent had "not initiated an investigation", but she failed to answer any of the questions raised by my attorney. A copy of this letter is attached marked "DCM7".

21. On 11 April 2016 my attorney sent a letter to the Respondent (incorrectly) dated 17 March 2016. A copy of this letter is attached marked "DCM8". In that letter my attorney confirmed that the documents requested by Respondent had been couriered to the Respondent. He referred to his earlier letter of 17 March 2016 and repeated his previous requests for clarity:

> *"Which section of Companies Act, 2008 is our client alleged to have contravened?"*
>
> *"Has the CIPC duly considered our client's various concerns as set out in her letter dated 23 February 2016, and our letter dated 17 March 2016?"*
>
> *"What is the reason for the delay? What prompted CIPC to investigate the complaint of M Turner more than a year after it was received?"*
>
> *"Has CIPC received any other related complaints?"*
>
> *"Has it been approached by, or engaged with, anybody other than M Turner in relation to the complaint against our client?"*

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22. On 26 May 2016 Mr van Niekerk received a reply from the Respondent. A copy of this letter is attached marked "DCM9". In this letter Ms van Zyl repeated her confirmation that the Respondent has "not yet initiated or investigated" a complaint, and stated that the Respondent had received requests to investigate me from both M Turner and Mr Kalawe. Ms van Zyl opined that these complaints were not complaints as contemplated by section 187(2)(c) of the Act. Ms van Zyl also requested further documents from me.

23. In response, my attorney wrote to the Respondent on 9 June 2016. He again asked the Respondent to indicate which section of the Act I was alleged to have contravened. A copy of this letter is attached marked "DCM10". My attorney further pointed out the conspicuous similarities between the complaint by Mr Kalawe and that of M Turner and noted certain factual inaccuracies in Mr Kalawe's complaint. In conclusion my attorney specifically stated as follows:

> *"We request as we have before, that you revert to us prior to taking any further step. Notwithstanding your assertion (that) the CIPC has not embarked on an investigation, it seems to us that it is close to crossing the threshold, if it has not already done, so by inviting input from previous directors."*

24. On 6 July 2016 Ms van Zyl requested further documents. A copy of her letter is attached marked "DCM11".

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25. There was no further correspondence from the Respondent until the issue of the Compliance Notice on the 28th November 2016.

Compliance Notice and subsequent correspondence

26. On 28 November 2016 I received a letter from Mr Rory Voller, the Commissioner of the Respondent. I attach a copy of the letter and the attachments thereto, marked "DCM12". The letter informed me that the Respondent had found that I had contravened sections 73(7), 73(8) and 76(3) of the Act, and issued a Compliance Notice which it attached to the letter. The Compliance Notice required me to inform the Minister of Finance and the board of SAA of the Respondent's findings, and to confirm thereafter to the Respondent that I had duly informed the Minister and the board.

27. My attorneys replied thereto on 12 January 2017 with a detailed request for reasons and clarity. I attach a copy of the letter marked "DCM13". I point in passing to the explanation for the delay in reverting to the Respondent.

28. My attorneys pertinently asked the Respondent to explain on what basis it had concluded that I had contravened certain sections of the Act.

29. I do not repeat the contents of the letter but request that it be incorporated herein.

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30. I submit that I was entitled to a comprehensive reply, and in particular to the reasons for the Commissioner's findings from the Respondent to the issues raised by me in my letter of 12 January 2017.

31. As I pointed out, the Respondent's decision impugned my integrity. Inasmuch as the Respondent exercised a statutory duty when it pursued this matter, reached its conclusion and issued the compliance notice, I submit the Respondent was obliged to:

31.1. follow the procedure prescribed in the Act;

31.2. explain to me as the person subjected to the process, exactly what process had been followed by the Respondent;

31.3. Provide my with an opportunity to rebut any information provided to the Commissioner upon which he formed certain conclusions and resultant findings and

31.4. provide me with the reasons for its decision.

32. I submit that I was manifestly entitled to a clear and unequivocal answer from the Respondent. That answer has still not been provided, as I shall demonstrate, and this failure by the Respondent is a basis for this application.

33. I attach hereto marked "DCM14", "DCM15", "DCM16" and "DCM17" the subsequent correspondence exchanged between my attorneys and the

COMMISSION OF INQUIRY INTO STATE CAPTURE

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Respondent, dated 13, 25 and 31 January, and 9 February 2017 respectively, and do not traverse the contents thereof for sake of brevity. As appears from the correspondence, the Respondent has steadfastly declined to answer the questions I raised.

FINDING IRRATIONAL

34. The finding by the Respondent is that I had contravened sections 73(7), 73(8) and 76(3) of the Act. I submit that the finding is irrational in respect of each section of the Act referenced by the Respondent. I deal in turn with each of these sections below.

Section 73(7) of the Act

35. Section 73(7) of the Act reads as follows:

> *"Resolutions adopted by the board—*
>
> *(a) must be dated and sequentially numbered; and*
>
> *(b) are effective as of the date of the resolution, unless the resolution states otherwise."*

36. The Compliance Notice states as follows (emphasis added):

> *"The absence of this board resolution has led the CIPC to conclude that you failed to comply with Section 73(7) and 73(8) of the Act and acted in a manner materially inconsistent with the*

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duties of a director thus breaching Section 76(3) of the Act, when as a director and the Chairperson of the Board of SAA you represented to the Minister that the Board had resolved to secure only 2 aircraft by means of the funding arrangements with Pembroke, when in fact the Board had resolved to secure 10 aircraft." [my emphasis]

37. The emphasised portion above indicates that the Respondent made a finding of fact to the effect that the board did not resolve to secure only two aircraft by means of the funding arrangements with Pembroke. In other words, the Respondent has based its conclusions on the fact that there was no such board resolution. I submit that this is the only reasonable interpretation of the extract quoted above.

38. Section 73(7) concerns the formal requirements of recording board resolutions. I submit that, if the Respondent found that no such resolution existed, it does not follow, by any manner of reasoning, that I had contravened that provision. The finding by the Respondent is irrational.

Section 73(8) of the Act

39. Section 73(8) of the Act states as follows:

"Any minutes of a meeting, or a resolution, signed by the chair of the meeting, or by the chair of the next meeting of the board, is

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evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be."

40. I am advised that section 73(8) is simply a statement of the position of the law. It is not legally possible for a director to contravene this provision. In the circumstances and having regard to what appears to be the facts established by the Commissioner, I submit that the Respondent's finding that I contravened this section is irrational.

Section 76(3) of the Act

41. Section 76(3) of the Act states as follows:

"Subject to subsections (4) and (5), a director of a company, when acting in that capacity, must exercise the powers and perform the functions of director—

(a) in good faith and for a proper purpose;

(b) in the best interests of the company; and

(c) with the degree of care, skill and diligence that may reasonably be expected of a person—

(i) carrying out the same functions in relation to the company as those carried out by that director; and

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(ii) having the general knowledge, skill and experience of that director."

42. Section 76(3) contains three sub-section. The Respondent does not indicate in the Compliance Notice which of the sub-sections I was found that I contravened, nor is it contended that I had contravened all three. I submit that the three sub-sections would ordinarily not apply collectively to the conduct of an errant director, but even if the Respondent formed the view that I had contravened all three, it should have said so, and indicated to me in what respect it concluded that my conduct breached each subsection.

43. Furthermore, section 76(3) is explicitly made subject to section 76(4) and 76(5). The Respondent has provided no basis to conclude that these provisions did not apply.

44. Section 76(4) and 76(5) read as follows:

"(4) In respect of any particular matter arising in the exercise of the powers or the performance of the functions of director, a particular director of a company-

(a) will have satisfied the obligations of subsection (3) (b) and (c) if-

(i) the director has taken reasonably diligent steps to become informed about the matter;

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(ii) either-

(aa) the director had no material personal financial interest in the subject matter of the decision, and had no reasonable basis to know that any related person had a personal financial interest in the matter; or

(bb) the director complied with the requirements of section 75 with respect to any interest contemplated in subparagraph (aa); and

(iii) the director made a decision, or supported the decision of a committee or the board, with regard to that matter, and the director had a rational basis for believing, and did believe, that the decision was in the best interests of the company; and

(b) is entitled to rely on-

(i) the performance by any of the persons-

(aa) referred to in subsection (5); or

(bb) to whom the board may reasonably have delegated, formally or informally by

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course of conduct, the authority or duty to perform one or more of the board's functions that are delegable under applicable law; and

(ii) any information, opinions, recommendations, reports or statements, including financial statements and other financial data, prepared or presented by any of the persons specified in subsection (5).

(5) To the extent contemplated in subsection (4) (b), a director is entitled to rely on-

(a) one or more employees of the company whom the director reasonably believes to be reliable and competent in the functions performed or the information, opinions, reports or statements provided;

(b) legal counsel, accountants, or other professional persons retained by the company, the board or a committee as to matters involving skills or expertise that the director reasonably believes are matters-

(i) within the particular person's professional or expert competence; or

(ii) as to which the particular person merits confidence; or

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(c) a committee of the board of which the director is not a member, unless the director has reason to believe that the actions of the committee do not merit confidence."

45. Notwithstanding the multiple requests prior to the issue of the Compliance Notice asking for clarification of which sections of the Act I was alleged to have contravened, and, subsequent to the issuing of the Compliance Notice, which sub-sections of section 76(3) I was found to have contravened, no response was forthcoming.

46. The Respondent's finding that I contravened section 76(3) is thus irrational based purely on a plain reading of the provision. The lack of any clarity regarding the basis on which it found that I had committed a contravention points to an irrational decision.

47. The absence of findings of fact upon which the decision was based and the absence of reasons for the findings is irregular, both in terms of its statutory obligations as an administrative body and the principles of natural justice.

DECISION AND ISSUING OF COMPLIANCE NOTICE PROCEDURALLY FLAWED

48. Procedural fairness and in particular the principles and rules of natural justice dictate that I should have had a right to be informed of the facts and considerations which led the Respondent to come to the finding that

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I had contravened specific sections of the Act, and I should have been afforded an opportunity to be heard in regard thereto.

49. Since March 2016 my attorneys have repeatedly requested the Respondent to identify the specific sections of the Act to which the enquiries by the Respondent pertained. The Respondent averred that it was making enquiries in the exercise of its function to monitor compliance with the Act, in terms of section 187(2)(b) of the Act. The Respondent only disclosed the sections which it found that I had contravened in the Compliance Notice on 28 November 2016. I am unable to fathom the reasons for the coy approach adopted by the Respondent. Its approach is entirely incompatible with my rights to procedural fairness and the principles of natural justice.

50. Subsequent to the issuing of the Compliance Notice, my attorneys vainly sought clarity regarding the reasons for the finding, as well as what aspects of the stated sections of the Act had I been found to have contravened. The request for reasons was explicitly to enable me to exercise my right to launch review proceedings in terms of section 172 of the Act.

51. In response the Respondent merely referred me to the letter and Compliance Notice dated 28 November 2016, and refused to provide any further clarity.

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52. In the circumstances, I submit that the finding by the Respondent that I had contravened the Act and the concomitant issue of the Compliance Notice was procedurally flawed, in that I was not given an opportunity to answer the case that I had to meet, because the case against me was shrouded in mystery. It escapes me entirely why the Respondent adopted this enigmatic approach, unless the Respondent knew that its findings would not withstand closer scrutiny.

53. The requirements imposed by the compliance notice do not accord with the prerequisites of the Act.

54. As appears from my attorneys' letter of 12 January 2017 marked "DCM13", I can only assume that the Compliance Notice was issued pursuant to section 171(2)(e) of the Act. If that is correct, I submit that the requirements for compliance (that I inform the Minister and the Board and thereafter confirm with the Respondent) do not serve to *rectify* the alleged contraventions of the Act and is therefore a nullity

55. This is all the more clear from the subsequent correspondence with the Respondent, to wit that the Respondent directly informed the Minister of the issuance of the Compliance Notice on the same day that it was issued further rendering the Compliance a nonsense.

56. When I review all the correspondence (from inception of the process through to the issue of the Compliance Notice) I am left with a very real

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concern as to the *bona fides* of the Respondent with regard to the conduct of this matter.

CONDONATION

57. I appreciate that this application is filed much more than 15 business days after the compliance notice dated 28 November 2016, and just more than 15 business days after the last correspondence of 9 February 2017 from the Respondent.

58. I ask condonation for the failure to bring this application within 15 business days.

59. I submit that I was entitled if not obliged to require the Respondent to answer to the questions raised in my attorneys' letter of 12 January 2017 and in the subsequent correspondence addressed to the Respondent.

60. I submit that I was entitled to answers to those questions in order to decide how best to frame the challenge against the conduct of the Respondent. A person in my position should not have to scratch in the dark to ascertain the reasoning of the Respondent, either during the investigation process, or once a decision is reached. My approach was to afford the Respondent an opportunity to clarify its decision, and only when the Respondent indicated on 9 February 2017 that it was not going to provide me with any such clarity, did I turn to this Tribunal for relief.

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61. After the letter of 9 February 2017, in which the Respondent firmly declined to answer, I had to make arrangements to instruct my legal representatives properly before they could proceed, and they in turn had to decide whether the appropriate route was to approach the Companies Tribunal, which they ultimately recommended, rather than exercise my right of review or appeal to a court.

62. This took longer than expected. My attorneys were required to traverse a huge amount of correspondence, and thereafter we consulted on 8 March 2017, when I was able to take advice and we could finalise the papers.

63. I submit that the Respondent is not prejudiced by the delay.

64. As appears from the aforegoing narrative, I had endeavoured in vain, since receipt of the initial letter of 28 November 2016, to cajole the Respondent into clarifying its stance, to enable me to determine whether or not, and on what basis, to challenge the Respondent.

65. I submit that the approach adopted by Respondent is iniquitous, and that I am entitled to the relief I seek. The prejudice to me, whilst the Respondent's decision stands, is manifest and enormous. The prejudice to the Respondent, on the other hand, is non-existent.

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66. The courts have consistently applied the principle of prejudice when adjudicating condonation applications. I submit that good cause for condonation exists, as is required by section 172(1)(b) of the Act.

67. Furthermore, if the Respondent had not adopted such an obdurate approach, this review application may well have been avoided. I sought first to afford the Respondent an opportunity to justify or explain its decision. I submit this approach was correct, despite the fact that it took me beyond the prescribed 15 day period.

68. In the premises I respectfully request the Tribunal to grant condonation.

CONCLUSION

69. I submit, with respect, that I have made out a case to cancel the finding that I had contravened section 73(7), 73(8) and 76(3) of the Act. I respectfully request that the Tribunal grant the following relief:

69.1. Cancellation of the Compliance Certificate;

69.2. Cancellation of the finding that I had contravened sections 73(7), 73(8) and 76(3) of the Act; and

69.3. Costs of these proceedings in the event the Respondent opposes same.

COMMISSION OF INQUIRY INTO STATE CAPTURE

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70. I reserve the right, in light of the paucity of the responses by the Respondent thusfar, to supplement this affidavit once the Respondent has filed its answer, and to add to or vary the relief I seek.

DUDUZILE CYNTHIA MYENI

I certify that:

I. the Deponent acknowledged to me that :

A. she knows and understands the contents of this declaration;

B. she has no objection to taking the prescribed oath;

C. she considers the prescribed oath to be binding on her conscience.

II. the Deponent thereafter uttered the words, "I swear that the contents of this declaration are true, so help me God".

III. the Deponent signed this declaration in my presence at the address set out hereunder on the 10 day of March 2017

2017 -03- 10

COMMISSIONER OF OATHS

COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-1585

SAA Corporate & PAX
Johannesburg
Company Code: 1010

Payment proposal list for proposal run 24.02.2015/MIX
List of paid amounts

24.02.2015 / 09:41:56
Users: SBH254Q
Page: 1

House Acct P Name	Account holder	Due Date	Crc	Amount paid	Net amount in LC
CoCd DocumentNo Assignment	Document Date PayT Days	FC gross amount	Tot.deductions in FC	Net amount in FC	Crcy

Vendor CP300
Company
EFT PAYMENTS
DISBURSEMENTS
Kempton Park
1627

Payment to
CTand A Project Management (Pty)Ltd
Plattekloof 3
7500

Bank Details
Nedbank
Bank number: 190342
Account Number: 1009698125

SBJIA MAIN E EFT Payment	ZAR	South Afr...	CTand A Project Management (Pty)Ltd	24.02.2015	ZAR	219,615.60-	219,615.60-
1010 1900604794 1193		02.02.2015	ZB00	0	219,615.60-	0.00	219,615.60- ZAR
* Tot							219,615.60-
					219,615.60-	0.00	219,615.60- ZAR

COMMISSION OF INQUIRY
INTO STATE CAPTURE

SOUTH AFRICAN AIRWAYS

EXPENSE AUTHORISATION

Vendor acc no CP300

Date: 06-Feb-15

Contract Reference:

Payment to:

CT & A Project Management (Pty) Ltd.
Invoice NO.: 1193
Nedbank, Branch code 100909
Cheque Account No.: 1009 698125

1H - Vat claimable

2H - Vat not claimable / Zero Rated

SAA Standard Payment Terms (30 DAYS FROM DATE OF STATEMENT)

Description of goods/service : Forensic Investigation

Cost Element	Cost Element Description	Cost Ctr	Invoice No	Exception Code - Purchase Order Compliance	Vat Code	Amount
916510	Independent advice	7474	1193		1H	219 615 60
						R 219 615.60

foreign currency: ZAR

Certified that the amount of TWO ONE NINE SIX ONE FIVE RAND AND 60 CENTS

is due for payment.

Authorisation Matrix

	Departmental Finance Manager (Budget Checked)	Manager/ Specialist Level 3	Manager/ Specialist Level 2 Lower	Head of Department Level 2 Upper	EXCO Member Level 1	CFO	CEO	SAA Board of Directors
Up to R50K	X	X						
Up to R500K	X		X					
Up to R 5M	X			X				
Up to R 10M	X				X			
Up to R 50M	X					X		
Up to R 100M	X						X	
Above R100M	X							X

It is important to note that every financial expenditure approval is subject to the principle of two signatures, one being that of the recommender and the other signature being that of the delegated authorised approver.

All expenses greater than R500k must be submitted to the Bid Adjudication Council to ensure that the appropriate procurement policy & procedures have been followed.

Please confirm the following:

1. Procurement process has been complied with	
2. Compliance with DOA	
3. Budget facility is available for the cost element	
4. Checked VAT code	
5. Checked cost centre/cost element	

Prepared by: CEngelbrecht 06-02-2015

Print Name CORRIE ENGELBRECHT

Tel no 1515

Room no 403

Recommended & Approved by: 6/2/15

Finance Manager / Controller

Print Name FAIZAL PEER

Recommended by:

Print Name: BARRY PARSONS

Approved by: Act. CHIEF EXECUTIVE OFFICER

Print Name: NICO BEZUIDENHOUT 10/02/2015.

Creditors - Note that no Exp. Authorisation document must be processed in SAP without a valid Exception Code

Checked in system and not previously paid:

BU number: 1900604794/1010

24/2/15 1900008534/1000

COMMISSION OF INQUIRY
INTO STATE CAPTURE

The PROJECT Office
Business Improvement Delivery

22 Melkhout Crescent
Platteklоof 3 | 7500
Telephone Office 0861 140 141
Fax 086 617 5117

CT&A Project Management (Pty) Ltd
PO Box 15813 | Panorama | 7506
Company Reg: 99/15942/07
Vat No: 4430183535

2nd February 2015

Tax Invoice
Invoice Number: 1193

Chairperson
South African Airways SOC
Airways Park
Jones Road
Kempton Park
Johannesburg

Independent advice with regard to alleged irregularities at SAA December 2014 and January 2015

Date	Matter	Excl vat	Vat	Total incl.
2nd December 2014 to 30th January 2015 147 hours (Dec 14 and Jan 15)	To our fee for advise to the sub committee and Board regarding the Kalawe investigations and related matter s for December 2014 and January 2015- see billing memorandum attached)	191 100.00	26 754.00	217 854.00
	Disbursements	1 545.26	216.34	1 761.60
	Total	192 645.26	26 970.34	219 615.60

Attached disbursements/billing memorandum and disbursements....

Please Note: Payment is due on presentation of invoice.
Interest will be charged at 1.6% per month on overdue amounts

Direct Payments: CT&A Project Management (Pty) Ltd.
Nedbank: Branch: 100909 Acc: 1009 698125

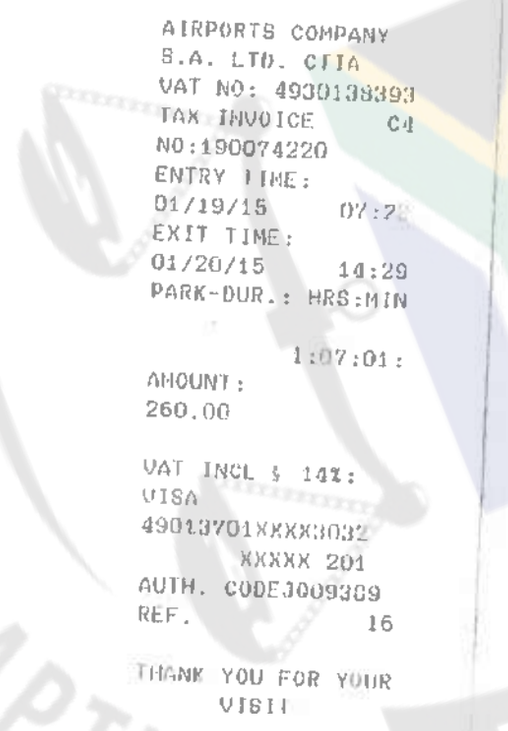
Date	SAA - kalawe investigation
2nd December 2014 to 30th January 2015 147 hours (Dec 14 and Jan 15)	Billing memorandum. Review and provide input to Sunday Times questions for chairperson, forward correspondence to Brian Pattison. Review documents regarding Riverbed. Meet with Derek of ENS forensic. Further investigation re Bagport and Senegal Review claim from McKinseys and further review McKinseys contract and contracting. Review correspondence from Pattison re Kalwe/Parker and advise on timing of further disciplinary action/process. Review O'Sullivan affidavit and review implication re Kalawe. Review Draft forensic report. Meeting at SAA with sub com and investigators re charges (12th dec). Further consideration of report. Provide comments and informartion request to ENS. Review correspondence from Parker and provide comment. Review correspondence received from Wonga Sodladla. Communicate with ENS, consider investigations and interview outcomes and advise. Review SAA legal report regarding Knona and provide comment to chairperson. Review furthe rcorrespondence from Parker. Review Sodlala report and provide comment. Telecon with chair regarding request from Kalawe for off record discussion, communication with ENS and follow up. Review correspondecne from ENS to Parker and follows up. Review legal opinion from ENS, and provide comments and discuss with Tony, Steven and chair. Discussion with Stevn re 2nd Interview with Kalawe. Communicarte with chair regarding Kalwe inuendo and repsond to Steven. Review possible charges and evidence documentation, seek additional document from ENS (Kalawe legal opinion on Bagport), consider same and make further suggestions. Request further information from ENS, consider and make proposals regarding evidence gathering. Provide further opinion to eNS on opinion and draft charges. Review further correspondence from Parker. Correspondence and telecon with ENS regarding CCMA hearing for 7th Jan. arrange for representation. Meeting (13th Jan) with Steven Powell to review charges, opinion and evidence. Telecon with Brian Patison. Review additional documents regarding Bagport from ENS, review and restate evidential status and requirements. Further discussions and document exchange with ENS regarding Senegal airlines, provide recommentation and support for matter. Review further opinion and charges from Brian Pattison. Meet with subcommittee and Board (19th Jan) and provide review of opinion and charges. Draft additional resolutions and review media statements, communicate with ENS. Provide advise to Board subcom on timing of process. Review frutehr correspondence from ENS. Review final version of forensice report. Review issue of Kalawe attendance at Board meetings and access to documents, provide oplon, discussion with ENS and Tony and chair. Discussion with all parties regarding finalisation of charges and notices. Meeting with Nico, with ENS and Counsel (28th Jan) further meetings with Derek and Tony and Chair at SAA (29th) Review Werksmans conflict issue. Review allegations regarding Sky Supply and KWE. Provide final comments re charges to Brian Pattison.

Summary of disbursements

Disbursements	excluding	vat	Total
Airport parking (19th and 29th Jan 2015)	539.47	75.53	615.00
phone calls, printing	1005.79	140.81	1146.60
Total disbursements	1545.26	216.34	1761.60

Invoices attached/....

COMMISSION OF INQUIRY INTO STATE CAPTURE



AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930138393
TAX INVOICE C4
NO:190074220
ENTRY TIME:
01/19/15 07:2
EXIT TIME:
01/20/15 14:29
PARK-DUR.: HRS:MIN
1:07:01:
AMOUNT:
260.00

VAT INCL $ 14%:
VISA
490137O1XXXX3032
XXXXX 201
AUTH. CODEJ009309
REF. 16

THANK YOU FOR YOUR
VISIT



AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930138393
TAX INVOICE C11
NO:190078689
ENTRY TIME:
01/28/15 04:43
EXIT TIME:
01/29/15 20:25
PARK-DUR.: HRS:MIN
1:15:42
AMOUNT:
355.00

VAT INCL $ 14%:
MASTER CARD
55205784XXXX4240
XXXXX 201
AUTH. CODEJS06538
REF. 52

THANK YOU FOR YOUR
VISIT

COMMISSION FOR INQUIRY INTO STATE CAPTURE

DD34-DCM-1591

COMMISSION OF INQUIRY
INTO STATE CAPTURE

DD34-DCM-1593

SAA Corporate & PAX
Johannesburg
Company Code: 1010

Payment proposal list for proposal run 10.04.2015/CP300
List of paid amounts

09.04.2015 / 15:32:07
Users: SBH254Q
Page: 3

House Acct P Name	Account holder	Due Date	Crc	Amount paid	Net amount in LC
CoCd DocumentNo Assignment	Document Date PayT Days	FC gross amount	Tot.deductions in FC		Net amount in FC Crcy

Vendor CP300
Company
EFT PAYMENTS
DISBURSEMENTS
Rampton Park
1627

Payment to
The Project Office
Plattekloof 3
7500

Bank Details
nedbank
Bank number: 190342
Account Number: 1009698125

SBJIA MAIN E EFT Payment ZAR South Afr...	The Project Office	10.04.2015	ZAR	197,784.00-	197,784.00-
1010 1900609585 1197	29.03.2015 ZB00 0	197,784.00-		0.00	197,784.00- ZAR
* Tot					197,784.00-
		197,784.00-		0.00	197,784.00- ZAR

COMMISSION OF INQUIRY INTO STATE CAPTURE

COMMISSION OF INQUIRY
INTO STATE CAPTURE

SOUTH AFRICAN AIRWAYS

EXPENSE AUTHORISATION

Vendor acc no

Date: 08-Apr-15

Contract Reference:

Payment to:

The Project Office

1H - Vat claimable
2H - Vat not claimable / Zero Rated

SAA Standard Payment Terms (30 DAYS FROM DATE OF STATEMENT)

Description of goods/service : Confidential investigation

Cost Element	Cost Element Description	Cost Ctr	Invoice No	Exception Code -Purchase Order Compliance	Vat Code	Amount
916510	Professional Fees	7610				197 784.00
						197 784.00

foreign currency

Certified that the amount of One Nine Seven Seven Eight Four Rand only

is due for payment.

Authorisation Matrix

	Departmental Finance Manager (Budget Checked)	Manager/ Specialist Level 3	Manager/ Specialist Level 2 Lower	Head of Department Level 2 Upper	EXCO Member Level 1	CFO	CEO	SAA Board of Directors
Up to R50K	X	X						
Up to R500K	X		X					
Up to R 5M	X			X				
Up to R 10M	X				X			
Up to R 50M	X					X		
Up to R 100M	X						X	
Above R100M	X							X

It is important to note that every financial expenditure approval is subject to the principle of two signatures, one being that of the recommender and the other signature being that of the delegated authorised approver.

All expenses greater than R500k must be submitted to the Bid Adjudication Council to ensure that the appropriate procurement policy & procedures have been followed.

Please confirm the following:

1. Procurement process has been complied with	
2. Compliance with DOA	
3. Approved Budget	NO BUDGET
4. Checked VAT code	
5. Checked G/L account	

Prepared by: Laurens

Print Name Annelise Laurens

Tel no 011-978-1005

Room no 418C

Recommended & Approved by: 6/4/15

Finance Manager / Controller

Print Name: Faizal Peer

Recommended by:

Print Name Jannie Louw

Approved by:

Print Name Lindsay Olitzki 8/4

Creditors - Note that no Exp. Authorisation document must be processed in SAP without a valid Exception Code

Checked in system and not previously paid:

BU number: 1900609585|1010

1900008786|1000

31|3|15

COMMISSION OF INQUIRY
INTO STATE CAPTURE

The PROJECT Office
Business Improvement Delivery

22 Melkhout Crescent
Platteklooof 3 | 7500
Telephone Office 0861 140 141
Fax 086 617 5117

CT&A Project Management (Pty) Ltd
PO Box 15813 | Panorama | 7506
Company Reg: 99/15942/07
Vat No: 4430183535

29th March 2015

Tax Invoice
Invoice Number: 1197

Chairperson
South African Airways SOC
Airways Park
Jones Road
Kempton Park
Johannesburg

Independent advice with regard to alleged irregularities at SAA February 2015

Date	Matter	Excl vat	Vat	Total Incl.
1st February to 28th February 2015	To our fee for advise to the sub committee and Board regarding the Kalawe investigations and related matters for December 2014 and January 2015- see billing memorandum attached)	171 750.00	24 045.00	195 795.00
	Disbursements	1 788.56	200.44	1 989.00
	Total	173 538.56	24 245.44	197 784.00

See billing memorandum overleaf/...

Please Note: Payment is due on presentation of invoice.
Interest will be charged at 1.6% per month on overdue amounts

Direct Payments: CT&A Project Management (Pty) Ltd.
Nedbank: Branch: 100909 Acc: 1009 698125

TB10 | 9165/10

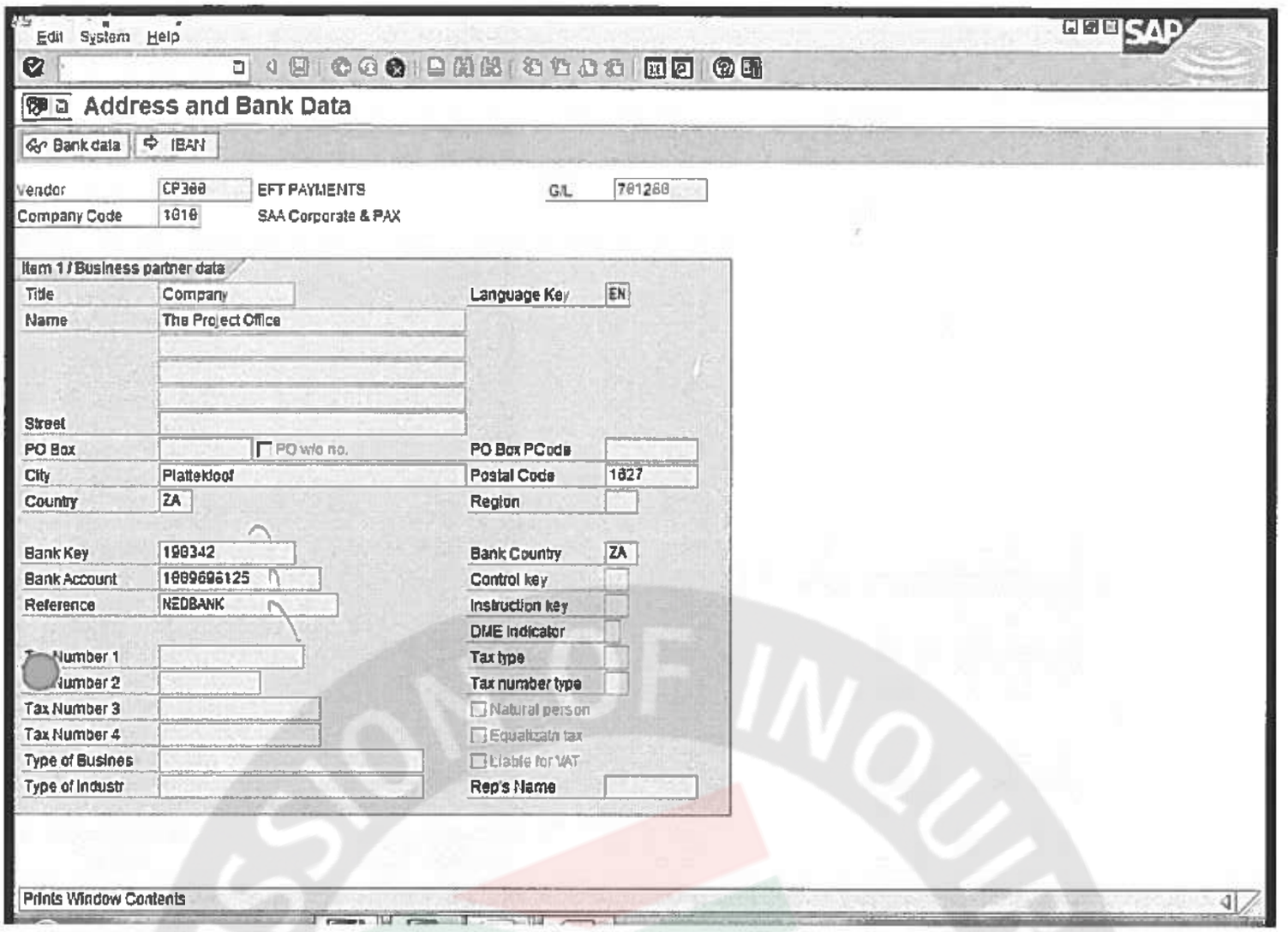
Billing memorandum
114.5 hours

Date	SAA - kalawe investigation	Excl vat	Vat	Total Incl.
1st February to 28th February 2015	**Billing memorandum** Review charge sheet from Brain P. correspondence with Subcom and ENS. Correspondence with Barry P re Senegal. Correspondence with Derek ENS re internal investigations of other offenders.Discussions between Steven P, Brian P and Counsel re case management. further correspondence and amendments to charge sheet. discussions re media release. Review of Bagport evidence; discussions and corresepondence with Derek and Steven re evidence gaps re ACSA role and opinion. Review correspondence from Senegalise Minister re cancellated acquisition of airline.discussions with chair, Further discussions re Senegal. Further investigation of matter and implications for SA government, Draft suggrested letter to minister.Further changes to charge sheet. Review of correspondecne to minister of Finance re SAa report back and request for meeting. Bundle of evidence.Received 4 box files and review evidence plan and related documents. Detailed review and commentary on all evidence in bundles, follow up questions with Derek and Steven. Building case files.Provide commentary on evidence and gaps (major evidence review). Review transcripts of 2 x Kalawe interviews and add to evidence plan. meeting with official in CT regarding Kalawe /Bagport and Kalawe/Sodladla investigations. Coms with Barry P regarding ACSA contracts and Swissport obligations baggage security. Review and comment of Kona answering affidavit. Review of Kalawe request for further documents. Review corresepondence between Schindlers and ENS re timeline. Discussions and meeting with Steven P of ENS (25th). discussions re media release and ameendments to Meeting with chairperson re Paul O'sullivan matter 25th, 26th 27th 28th. Meetings with ENS and drafting press releases and follow up on investigations.	171750	24045	195 795.00
114.5 hours	Disbursement.	1 788.56	200.44	1 989.00
	Total	173 538.56	24 245 44	197 784.00

Summary of disbursements

Disbursements	excluding	vat	Total
Airport parking (19th and 29th Jan 2015)	539.47	75.53	615.00
phone calls, printing	1249.09	124.91	1374.00
Total disbursements	1788.56	200.44	1989.00

COMMISSION OF INQUIRY INTO STATE CAPTURE



Edit System Help

SAP

Address and Bank Data

Bank data | IBAN

Vendor	CP388 EFT PAYMENTS	G/L	781260
Company Code	1010 SAA Corporate & PAX		

Item 1 / Business partner data

Title	Company	Language Key	EN
Name	The Project Office		
Street			
PO Box	PO w/o no.	PO Box PCode	
City	Platekloof	Postal Code	1827
Country	ZA	Region	
Bank Key	198342	Bank Country	ZA
Bank Account	1089696125	Control key	
Reference	NEDBANK	Instruction key	
		DME Indicator	
Tax Number 1		Tax type	
Tax Number 2		Tax number type	
Tax Number 3		Natural person	
Tax Number 4		Equalization tax	
Type of Busines		Liable for VAT	
Type of Industr		Rep's Name	

Prints Window Contents

COMMISSION OF INQUIRY INTO STATE CAPTURE

COMMISSION OF INQUIRY
INTO STATE CAPTURE

DD34-DCM-1601

SAA Corporate & PAX — Payment proposal list for proposal run 30.04.2015/SPECI — 29.04.2015 / 15:06:14
Johannesburg — List of paid amounts — Users: SBB25[illegible]
Company Code: 1010 — Page: 1

House Acct P Name / CoCd DocumentNo Assignment	Account holder / Document Date PayT Days	Due Date / FC gross amount	Crc / Tot.deductions in FC	Amount paid / Net amount in FC	Net amount in LC / Crcy
SBJIA MAIN E EFT Payment ZAR South Afr...	CT & A Project Management(Pty)Ltd	30.04.2015	ZAR	417,876.94-	417,876.94-
1010 1900611185 1198	28.04.2015 ZB00 0	194,005.34-		0.00	194,005.34- ZAR
1010 1900611185 1203	**28.04.2015 ZB00 0**	**233,871.60-**		**0.00**	**233,871.60- ZAR**
1010 1900611187 1203	28.04.2015 ZB00 0	223,871.60-		0.00	223,871.60- ZAR
1010 1900611187 1203	**28.04.2015 0**	**233,871.60**		**0.00**	**233,871.60 ZAR**
* Tot					**417,876.94-**
		417,876.94-		0.00	417,876.94- ZAR

Vendor CP300
Company
EFT PAYMENTS
DISBURSEMENTS
Kempton Park
1627

Payment to
CT & A Project Management(Pty)Ltd
22 Melkhout Crescent
Platteklоof
7500

Bank Details
NEDBANK CAPE TOWN
Bank number: 100909
Account Number: 1009698125

COMMISSION OF INQUIRY INTO STATE CAPTURE

COMMISSION OF INQUIRY
INTO STATE CAPTURE

DD34-DCM-1603

SOUTH AFRICAN AIRWAYS

EXPENSE AUTHORISATION

Vendor acc no CP3001

Date: 28-Apr-15

Contract Reference:

Payment to:

CT & A Project Management (Pty) Ltd.
Invoice NO.: 1198 & 1203
Nedbank, Branch code 100909
Cheque Account No.: 1009 698125

1H - Vat claimable

2H - Vat not claimable / Zero Rated

SAA Standard Payment Terms (30 DAYS FROM DATE OF STATEMENT)

Description of goods/service : Forensic Investigation

Cost Element	Cost Element Description	Cost Ctr	Invoice No	Exception Code -Purchase Order Compliance	Vat Code	Amount
916510	Independent advice	7474	1198			194 005.34
916510	Independent advice	7474	1203			223 871.60
						R 417 876.94

foreign currency: ZAR

Certified that the amount of FOUR ONE SEVEN EIGHT SEVEN SIX RAND AND 94 CENTS

is due for payment.

417876-94

Authorisation Matrix

	Departmental Finance Manager (Budget Checked)	Manager/ Specialist Level 3	Manager/ Specialist Level 2 Lower	Head of Department Level 2 Upper	EXCO Member Level 1	CFO	CEO	SAA Board of Directors
Up to R50K	X	X						
Up to R500K	X		X					
Up to R 5M	X			X				
Up to R 10M	X				X			
Up to R 50M	X					X		
Up to R 100M	X						X	
Above R100M	X							X

It is important to note that every financial expenditure approval is subject to the principle of two signatures, one being that of the recommender and the other signature being that of the delegated authorised approver.

All expenses greater than R500k must be submitted to the Bid Adjudication Council to ensure that the appropriate procurement policy & procedures have been followed.

Please confirm the following:

1. Procurement process has been complied with	
2. Compliance with DOA	
3. Budget facility is available for the cost element	
4. Checked VAT code	
5. Checked cost centre/cost element	

Prepared by: MEngelbrecht 28-04-2015

Print Name CORRIE ENGELBRECHT

Tel no 1515

Room no 403

Recommended by: 28/4/15

Print Name: Act. CFO: Lindsay Olitzki

Approved by: Act. CHIEF EXECUTIVE OFFICER

Print Name: NICO BEZUIDENHOUT

Recommended & Approved by: 28/4/15

Finance Manager / Controller

Print Name FAIZAL PEER

Creditors - Note that no Exp. Authorisation document must be processed in SAP without a valid Exception Code

Checked in system and not previously paid:

BU number: 1010/1900611185 1000/1900008863

Corrected 1010/1900611187 (28/4) 29/4

COMMISSION OF INQUIRY
INTO STATE CAPTURE

The PROJECT Office
Business Improvement Delivery

22 Melkhout Crescent
Plattekloof 3 | 7500
Telephone Office 0861 140 141
Fax 086 617 5117

CT&A Project Management (Pty) Ltd
PO Box 15813 | Panorama | 7506
Company Reg: 99/15942/07
Vat No: 4430183535

28th April 2015

Tax Invoice
Invoice Number: 1198

Chairperson
South African Airways SOC
Airways Park
Jones Road
Kempton Park
Johannesburg

Independent advice with regard to alleged irregularities at SAA March 2015

Date	Matter	Excl vat	Vat	Total incl.
1st March to 31st march 2015 117.5 hours	To our fee for advise to the sub committee and Board regarding the Kalawe investigations and related matters for March 2015 (see billing memorandum attached)	164 500.00	23 030.00	187 530.00
	Disbursements (see attached)	5 841.74	633.60	6 475.34
	Total	170 341.74	23 663.60	194 005.34

See billing memorandum overleaf/...

Please Note: Payment is due on presentation of invoice.
Interest will be charged at 1.6% per month on overdue amounts

Direct Payments: CT&A Project Management (Pty) Ltd.
Nedbank: Branch: 100909 Acc: 1009 698125

Billing memorandum
117.5 hours

Date	SAA - kalawe investigation
1st March to 31st march 2015 **117.5 hours**	**Billing memorandum:** Continuation of the POS matter. Further press issues with Hein Kaiser of SAA re media questions put to chairpersons. Disccusions with George Van Nirkerk and Steven Powell of ENS Sunday 1st March re meeting with POS at airport and determining follow up action for Monday with POS. Review judgements on POS and background checks. Draft media responses for chairpersonReview correspondecne from Schindlers and ruling from Cassim. Preparation of witnesses schedules for 9th. discussions to secure high level Hawks inquiry into POs matter. Review of correspondence and documents for discovery for Schindlers. meeting with George and Steven of ENS re POS (5th). Further investigation into others named persons in POS matter. correspndence with George and Steven regarding POS matter and documents provided by POS. Provide ENS with copies of whistleblower policy, shareholders, MOI, charter, fraud policy and IA policy. Review chairperson affidavit criminal charge against POS and arrange for signature. discuss approach to hearing with Brian. Update John and Tony re approach to single charge (POS). Sandton preparation of witessess, meeting with Adv Pretorius and Brian (9th, 10th, 11th , 12th). Reviewing additional POS charge. Review evidence of Steven Powel re POS. Discussions Steven and George re POS matter, cancellation of POS agreement, review evidence involing Abe Mbulawa and Lennox Tshweti. discussions with George re Hawks and contact with Hawks officers re POS matter. Reviewing evidence obtained from POS USP memory stick. discussions with Steven and George. Meeting with ENS team re POS information and strategy. Update to John and Tony. Review Schlinders request for postponement/discussion with Brian. Review correspondence fro POS attorney (Furman) re cancellation of agremeent and discuss with George. Discussion with George re Mail and Guardian article. Review correspeondecne and affidavit in respect of application for posteponement of hearing. Correspondence with Steven re foreign bank accounts and affidavit by Steven. Meeting and hearings 16-20th in Sandton with legal team.Correspondence with Brian re Schindlers advice to bring application on 17th. Attend at ENS for hearing 16th and 17th, discussions re postponement and Steven's evidence. Adise on resolutions necessary for the additional charges, discussions with ENS and Barry, attending to additional resolutions. discussions with Brian re possible settlement. Draft reciew and proposal for board re 3 months only. Teleconference with ENS team(23rd).Attend to IR8A complaint, discussion with Steven and instrcution to review finding on A320 transaction, obtain further A320 documentation, and pass to Steven. Review Schindlers request for additional documentation and provide documents. Review unsigned application from Schindlers for Labour court urgent application

Summary of disbursements

Disbursements	excluding	vat	Total
Airport parking (6th, 8th-12th and 16th-20th March 2015)	1 600.88	224.12	1825.00
phone calls, printing	1316.00	0.00	1316.00
Hotel accommodation Da Vinci 12/3/2015	1464.32	205.01	1669.33
Hotel accommodation Da Vinci 17/3/2015	1460.54	204.47	1665.01
Total disbursements	5841.74	633.60	6475.34

AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930138393
TAX INVOICE 02
NO:100093686
ENTRY TIME:
03/06/15 07:35
EXIT TIME:
03/06/15 20:49
PARK DUR.: HRS:MIN
0:13:14

AMOUNT:
165.00

VAT INCL @ 14%:
MASTER CARD
55205784XXXX4240
XXXXX 201
AUTH. CODE 002106
REF. 71

THANK YOU FOR YOUR
VISIT

AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930138393
TAX INVOICE 02
NO:100093686
ENTRY TIME:
03/20/15 11:30
EXIT TIME:
03/20/15 [illegible]
PARK DUR.: HRS:MIN
3:21:58

AMOUNT:
735.00

VAT INCL @ 14%:
MASTER CARD
55205784XXXX4240
XXXXX 201
AUTH. CODE J008036
REF. 01

THANK YOU FOR YOUR
VISIT

AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930138393
TAX INVOICE 02
NO:100658382
ENTRY TIME:
03/08/15 09:26
EXIT TIME:
03/12/15 23:28
PARK-DUR.: HRS:MIN
4:[illegible]

AMOUNT:
925.00

VAT INCL @ 14%
VISA
4901370[illegible]3032
XXXXX 201
AUTH. CODE J003537
REF. 64

THANK YOU FOR YOUR
VISIT

COMMISSION OF INQUIRY INTO STATE CAPTURE

LEGACY

Mr Nick Linnell
South Africa

INVOICE

Company Name	:	Room No.	: 0801
User ID	: ZUKIH	Arrival	: 11/03/15
Cust. VAT Reg.No.	:	Departure	: 12/03/15
Reference	:	Confirmation No.	: 6152024
		Page No.	: 1 of 1
		Folio No./Inv. No.	: /
		VAT Reg. No.	: 4740254315
		Membership Level	: SILVER
		Membership Number	: 0834881000

Date	Description / Reference		Exchange Rate	Charges ZAR	Credits ZAR
11/03/15	Telephone - Hotel	Room[00:00:43]		4.32	
11/03/15	Corporate Rate			1,650.00	
11/03/15	Tourism Levy			15.01	
12/03/15	Master Card				1,669.33
			Total	1,669.33	1,669.33

As a Legacy Lifestyle member you have earned 82.50 Lifestyle Rands

Accommodation	82.50
	82.50

Reward amount subject to verification and is inclusive of 20% admin fee. The values shown are applicable if account not settled by any redemption of Lifestyle Rands

Balance Due	0.00 ZAR
Total Incl. VAT	1,669.33 ZAR
Net Amount	1,464.32 ZAR
Non Vatable Total	0.00 ZAR
Vatable Total	1,669.33 ZAR
14% VAT	205.01 ZAR

It has been a pleasure to have you staying at our hotel! We look forward to welcoming you back in the future.

COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-1609



DAVINCI
HOTEL AND SUITES
ON NELSON MANDELA SQUARE

Mr Nick Linnell
South Africa

TAX INVOICE

Company Name	:	Room No.	: 1028
User ID	: LINSEYH	Arrival	: 16/03/15
Cust. VAT Reg.No.	:	Departure	: 17/03/15
Reference	:	Confirmation No.	: 6186024
		Page No.	: 1 of 1
		Folio No./Inv. No.	: 94350/
		VAT Reg. No.	: 4740254315
		Membership Level	: SILVER
		Membership Number	: 0834881000

Date	Description / Reference	Exchange Rate	Charges ZAR	Credits ZAR
16/03/15	Corporate Rate		1,650.00	
16/03/15	Tourism Levy		15.01	
17/03/15	Master Card			1,665.01
		Total	1,665.01	1,665.01

As a Legacy Lifestyle member you have earned 82.50 Lifestyle Rands

Accommodation	82.50
	82.50

Reward amount subject to verification and is inclusive of 20% admin fee. The values shown are applicable if account not settled by any redemption of Lifestyle Rands

Balance Due	0.00 ZAR
Total Incl. VAT	1,665.01 ZAR
Net Amount	1,460.54 ZAR
Non Vatable Total	0.00 ZAR
Vatable Total	1,665.01 ZAR
14% VAT	204.47 ZAR

It has been a pleasure to have you staying at our hotel! We look forward to welcoming you back in the future.

LEGACY
HOTELS & RESORTS

Leonardo Da Vinci Hotel and Suites (Pty) Ltd
Reg No. 2004/013503/07
Corner Maude and 5th Street, Sandton · Private Bag X10059, Sandton, South Africa, 2146
www.legacyhotels.com · davinci@legacyhotels.com
Central Reservations: Tel +27 11 806 6888 · Fax +27 11 806 6899 · hotels@legacyhotels.com
Directors: AH Dorrestein, NG Yates, BM Foden, NM Wessels

DAVINCI Hotel and Suites is committed to the environment and all paper is now 100% recycled.

COMMISSION OF INQUIRY
INTO STATE CAPTURE

The PROJECT Office
Business Improvement Delivery

22 Melkhout Crescent
Platteklooof 3 | 7500
Telephone Office 0861 140 141
Fax 086 617 5117

CT&A Project Management (Pty) Ltd
PO Box 15813 | Panorama | 7506
Company Reg: 99/15942/07
Vat No: 4430183535

28th April 2015

Tax Invoice
Invoice Number: 1203

Chairperson
South African Airways SOC
Airways Park
Jones Road
Kempton Park
Johannesburg

Independent advice with regard to alleged irregularities at SAA April 2015

Date	Matter	Excl vat	Vat	Total Incl
1st Aprilto 26th April 2015 138 hours	To our fee for advise to the sub committee and Board regarding the Kalawe investigations and related matters for December 2014 and January 2015- see billing memorandum attached)	193 200.00	27 048.00	220 248.00
	Disbursements	3 178.60	445.00	3 623.60
	Total	196 378.60	27 493.00	223 871.60

See billing memorandum overleaf/...

Please Note: Payment is due on presentation of invoice.
Interest will be charged at 1.6% per month on overdue amounts

Direct Payments: CT&A Project Management (Pty) Ltd.
Nedbank: Branch: 100909 Acc: 1009 698125

COMMISSION OF INQUIRY INTO STATE CAPTURE

Billing memorandum
138 hours

Date	SAA - kalawe investigation
1st Aprilto 26th April 2015 138 hours	**Billing memorandum:** Teleconferecnce with ENS team regarding urgent application (2nd). Follow up on A320 report with Derek/steven and provide IA report and review Derek's responses.Review corresepndence to Schindlers. Review Kalawe affidavit and supporting annexures. Research Protected disclosure Act. discussions and corresepondence with Brian and George. Review of media release, discussions with Hein of SAA and ENS. Correspondence with Steven media release by Kalawe. Request for Airbus report. Input into replying affidavit. Providing documents supporting 1st disclosure defense (werksmans) Providing comments on affidavit and annexures. Working with ENS team to to provide comment and input replying documentation (easter weekend). further corresepndence re IRBA and A320 transaction wity Steven. Review input from Nico. Conference call with ENS (7th). Attend to finalisation of Board resolutions and principle of all resolutions passed since Kalawe suspension. Provide final comments to affidavit. Review Kalawe replying affidavit. discussions with Brian and George.Liason with Hein and conferecne call with George and Steven and Hein re media updates. Review and comment on Respondents heads of auguement. Discussions with Brian and Paul re settlement of arbitration matter (returned to Cassim) discussion with Tony and John. Review settlement agreement. Teleconferecne with ENS legal team. Obtain copy of fidelity cover agreement. Provide opinion and discuss with George. Review reply from Willis. Meeting with tony and ENS team in sandton (14th). Provide report for the board re options.Meeting at Cape Town airport with board (15th)Further review of resolutions for hearing. Discussion with Brian and Steven redisclosure of all allegations by Kalawe - review letter from Steven and make changes. Obtain updated copy of D&O policy and provide George with comments. Meeting in sandton with ENS (17th) regardig proposed settlement and continuation of hearing. Telecon with regarding settlement. Telecon with Brian, Telekom with Tony. Telecon with chair. Further discussions with Chair and Tony over 18/19. Review of settlement agreement Correspondence from chair 19th. Telecon with brian 20th re settlement challenges. Arrange board meeting for 21st. Flight to Johannesburg 20th.Further telecons with Brian, Tony and Chair. Meeting with Board at ENS 21st. Finalisation of agreement with Brian and discussions with Chair. Review and provide comments on media release. Communicate with Brian on final signatures and next steps. Correspondecne with Barry and Board regarding actions to be complied with.

Summary of disbursements (attached)

Disbursements	excluding	vat	Total
Airport parking (14th, 17th, 20-21st, 24th April 2015)	550.88	77.12	628.00
phone calls, printing	1355.79	189.81	1545.60
Hotel accommodation D'Oreale 15th April	1271.93	178.07	1450.00
Total disbursements	3178.60	445.00	3623.60

DD34-DCM-1613

AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930138393
TAX INVOICE C16
NO:130065014
ENTRY TIME:
04/24/15 10:37
EXIT TIME:
04/24/15 10:45
PARK-DUR.: HRS:MIN

0:00:08:

AMOUNT:
18.00

VAT INCL § 14%:
MASTER CARD
55205784XXXX4240
XXXXX 201
AUTH. CODE6b05925
REF. 94

THANK YOU FOR YOUR
VISIT

AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930138393
TAX INVOICE C3
NO:190016049
ENTRY TIME:
04/17/15 04:55
EXIT TIME:
04/17/15 17:51
PARK-DUR.: HRS:MIN

0:12:56:

AMOUNT:
170.00

VAT INCL § 14%:
MASTER CARD
55205784XXXX4240
XXXXX 201
AUTH. CODEJP02814
REF. 34

THANK YOU FOR YOUR
VISIT

AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930138393
TAX INVOICE C2
NO:180034801
ENTRY TIME:
04/20/15 15:45
EXIT TIME:
04/21/15 18:59
PARK-DUR.: HRS:MIN
1:03:14

AMOUNT:
270.00

VAT INCL § 14%:
MASTER CARD
55205784XXXX4240
XXXXX 201
AUTH. CODEJ003731
REF. 47

THANK YOU FOR YOUR
VISIT

AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930138393
TAX INVOICE C4
NO:130027617
ENTRY TIME:
04/14/15 04:58
EXIT TIME:
04/14/15 17:23
PARK-DUR.: HRS:MIN

0:12:25:

AMOUNT:
170.00

VAT INCL § 14%:
CASH

THANK YOU FOR YOUR
VISIT

PEERMONT
D'OREALE
GRANDE
EMPERORS PALACE, JOHANNESBURG

Peermont Global (Pty) ltd
t/a Emperors Palace
64 Jones Road, P O Box 956, Kempton Park, 1620
VAT Number: 4540235514
TAX INVOICE

Nick Linnell
South Africa

Hotel Name	D'oreale Grande	Contact Name	Tumi Masedi
		Voucher No	
Room No	2107	Arrival	20/04/15
Group Code		Departure	21/04/15
Folio No./Inv. No	248778/	Reservation No.	54578233
Checked Out By	Rex Senona	No. of Guests	1 / 0
		Page No.	1 of 1
		Rate Code	SAAPREF

Date	Text	Charges ZAR	Credits ZAR
20/04/15	Accommodation	1,450.00	
21/04/15	Master Card		1,450.00
	Total	1,450.00	1,450.00

Balance Due	R	0.00
Non Vatable Charges	R	0.00
Total Excl. VAT	R	1,271.93
Total VAT @ 14%	R	178.07
Total Incl. VAT	R	1,450.00

COMMISSION OF INQUIRY INTO STATE CAPTURE

SOUTH AFRICAN AIRWAYS

EXPENSE AUTHORISATION

Vendor acc no

Date: 29-Aug-16

Contract Reference:

Payment to:

The Project Office

1H - Vat claimable
2H - Vat not claimable / Zero Rated

SAA Standard Payment Terms (30 DAYS FROM DATE OF STATEMENT)

Description of goods/service: Advise provided to Board

Cost Element	Cost Element Description	Cost Ctr	Invoice No	Exception Code *Purchase Order Compliance	Vat Code	Amount
916510		7474	1255			143 702,50
						143 702 50

SAA CREDITORS
HEAD OFFICE
2016 -09- 02
PAID
PAID:

foreign currency: ZAR

Authorisation Matrix

	Departmental Finance Manager (Budget Checked)	Manager/ Specialist Level 3	Manager/ Specialist Level 2 Lower	Head of Department Level 2 Upper	EXCO Member Level 1	CFO	CEO	SAA Board of Directors
Up to R50K	X	X						
Up to R500K	X		X					
Up to R 5M	X			X				
Up to R 10M	X				X			
Up to R 50M	X					X		
Up to R 100M	X						X	
Above R100M	X							X

It is important to note that every financial expenditure approval is subject to the principle of two signatures, one being that of the recommender and the other signature being that of the delegated authorised approver.

All expenses greater than R500k must be submitted to the Bid Adjudication Council to ensure that the appropriate procurement policy & procedures have been followed.

SAA CREDITORS
HEAD OFFICE
2016

Please confirm the following:

1. Procurement process has been complied with	
2. Compliance with DOA	
3. Budget facility is available for the cost element	✓
4. Checked VAT code	
5. Checked cost centre/cost element	

Prepared by:

Print Name: Carol Chinjeke

Tel no: 1 908

Room no: 6th floor

Recommended by:

Print Name: Ruth Kibuuka

Approved by:

Print Name: Phumeza Nhantsi

Recommended & Approved by:

Finance Manager / Controller: 31/8/16

Print Name

Creditors - Note that no Exp. Authorisation document must be processed in SAP without a valid Exception Code

Checked in system and not previously paid: Wendy

BU number: 1900653429

1900169992

COMMISSION OF INQUIRY
INTO STATE CAPTURE

The PROJECT Office
Business Improvement Delivery

22 Melkhout Crescent
Plattekloof 3 | 7500
Telephone Office 0861 140 141
Fax 086 617 5117

CT&A Project Management (Pty) Ltd
PO Box 15813 | Panorama | 7506
Company Reg: 99/15942/07
Vat No: 4430183535

20th June 2016

Tax Invoice
Invoice Number: 1255

The Director
South African Airways SOC
Airways Park
Jones Road
Kempton Park
Johannesburg

Attention Ms. Yakhe Kwinana

AMENDED INVOICE

Various matters - advice provided to the Board – May/June 2016

Date	SAA - Board consultation and assistance	Excl vat	Vat	Total incl.
18th May to 18th June 2015	Billing memorandum Providing advice to members of the Board in respect on numerous matters (68.5hours)	123 300,00	17 262,00	140 562,00
	Phone calls, airport parking and Gautrain and printing	2 754,82	385,68	3 140,50
	Total	126 054,82	17 647,68	143 702,50

Disbursements - attached

Disbursements	excluding	vat	Total
phone calls, printing	1502,19	210,31	1712,50
gautrain	438,60	61,40	500,00 ✓
airport parking	814,04	113,96	928,00
Total disbursements	2754,82	385,68	3140,50

Please Note: Payment is due on presentation of invoice.
Interest will be charged at 1.6% per month on overdue amounts

Direct Payments: CT&A Project Management (Pty) Ltd.
Nedbank: Branch: 100909 Acc: 1009 698125

COMMISSION OF INQUIRY INTO STATE CAPTURE

AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930138393
TAX INVOICE C1
NO:190006224
ENTRY TIME:
05/27/16
EXIT TIME:
05/27/16
PARK-DUR.: HRS:MIN
0:13:06

AMOUNT:
126.00

VAT INCL @ 14%:
MASTER CARD
552057[illegible]4240
XXXXX 201
AUTH. C0743081[illegible]
REF.

THANK YOU FOR YOUR
VISIT

AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930138393
TAX INVOICE C2
NO:170011985
ENTRY TIME:
06/03/16 04:50
EXIT TIME:
06/03/16 14:27
PARK-DUR.: HRS:MIN
0:09:37

AMOUNT:
126.00

VAT INCL @ 14%:
MASTER CARD
55205784XXXX4240
XXXXX 201
AUTH. C0747908650
REF. 32

THANK YOU FOR YOUR
VISIT

AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930138393
TAX INVOICE C1
NO:190012254
ENTRY TIME:
06/14/16 04:42
EXIT TIME:
06/14/16 21:06
PARK-DUR.: HRS:MIN
0:16:24:

AMOUNT:
176.00

VAT INCL @ 14%:
MASTER CARD
55205784XXXX4240
XXXXX 201
AUTH. C0747803428
REF. 44

THANK YOU FOR YOUR
VISIT

Bombela Concession Company
22 Milkyway Avenue
Linbro Business Park
LINBRO PARK
2090
VAT Reg Num 4490228253

Station Name ORTIA
Date Time Today 03/06/2016 08:02:31 AM
Equipment ID 40A03

Purse Reload

Card Serial Num 3957984196
Added Value R 500.00
New Value R 500.00

Payment

Total Due Amount R 500.00
Payment Means Bank Card
Paid Amount R 500.00

Thank you

AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930138393
TAX INVOICE C9
NO:260002897
ENTRY TIME:
06/08/16 04:55
EXIT TIME:
06/12/16 20:17
PARK-DUR.: HRS:MIN
4:15:22:

AMOUNT:
688.00

VAT INCL @ 14%:
MASTER CARD
552DXXXX40134240
XXXXX 201
AUTH. CODE 688801
REF. 48

THANK YOU FOR
VISITING AFRICA'S
MOST AWARD WINNING
AIRPORT

Total: R1166

The PROJECT Office
Business Improvement Delivery

22 Melkhout Crescent
Plattekloof 3 | 7500
Telephone Office 0861 140 141
Fax 086 617 5117

CT&A Project Management (Pty) Ltd
PO Box 15813 | Panorama | 7506
Company Reg: 99/15942/07
Vat No: 4430183535

20th June 2016

Tax Invoice
Invoice Number: 1258

The Director
South African Airways SOC
Airways Park
Jones Road
Kempton Park
Johannesburg

Attention Ms. Yakhe Kwinana

Various matters - advice provided to the Board – May/June 2016

Date	SAA - Board consultation and assistance	Exc Vat	Vat	Total incl.
18th May to 18th June 2015	Billing memorandum: Providing advice to members of the Board in respect on numerous matters (68.5hours)	171 250,00	23 975,00	195 225,00
	Phone calls, airport parking and Gautrain and printing	1 502,19	210,31	1 712,50
	Total	172 752,19	24 185,31	196 937,50

Disbursements - attached

Disbursements	excluding	vat	Total
phone calls, printing	1502,19	210,31	1712,50
guatrain	438,60	61,40	500,00
airport partking	814,04	113,96	928,00
Total disbursements	1502,19	210,31	1712,50

Please Note: Payment is due on presentation of invoice.
Interest will be charged at 1.6% per month on overdue amounts

Direct Payments: CT&A Project Management (Pty) Ltd.
Nedbank: Branch: 100909 Acc: 1009 698125

COMMISSION OF INQUIRY INTO STATE CAPTURE

AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 493013[illegible]
TAX INVOICE C1
NO:180006224
ENTRY TIME:
05/27/16 05:[illegible]
EXIT TIME:
05/27/16 12:[illegible]
PARK-DUR.: HRS:MIN
0:19:[illegible]
AMOUNT:
176.00

Board Meeting

VAT INCL @ 14%:
MASTER CARD
55205784XXXX4240
XXXXX 201
AUTH. C0743081[illegible]
REF.

THANK YOU FOR YOUR
VISIT

AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930138393
TAX INVOICE C2
NO:170011985
ENTRY TIME:
06/03/16 04:50
EXIT TIME:
06/03/16 14:27
PARK-DUR.: HRS:MIN
0:09:37
AMOUNT:
126.00

VAT INCL @ 14%:
MASTER CARD
55205784XXXX4240
XXXXX 201
AUTH. C0747908650
REF. 32

THANK YOU FOR YOUR
VISIT

AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930138393
TAX INVOICE C1
NO:190012254
ENTRY TIME:
06/14/16 04:42
EXIT TIME:
06/14/16 21:06
PARK-DUR.: HRS:MIN
0:16:24:
AMOUNT:
176.00

VAT INCL @ 14%:
MASTER CARD
55205784XXXX4240
XXXXX 201
AUTH. C0747803428
REF. 44

THANK YOU FOR YOUR
VISIT

476

Bombela Concession Company
22 Milkyway Avenue
Linbro Business Park
LINBRO PARK
2090
VAT Reg Num 4490228253

Station Name ORTIA
Date Time Today 03/06/2016 08:02:31 AM
Equipment ID 40A03

Purse Reload

Card Serial Num 3857984196
Added Value R 500.00
New Value R 500.00

Payment

Total Due Amount R 500.00
Payment Means Bank Card
Paid Amount R 500.00

Thank you

AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930138393
TAX INVOICE C9
NO:2[illegible]0002897
ENTRY TIME:
06/08/16 04:55
EXIT TIME:
06/12/16 20:17
PARK-DUR.: HRS:MIN
4:15:22:
AMOUNT:
688.00

VAT INCL @ 14%:
MASTER CARD
5520XXXX40134240
XXXXX 201
AUTH. CODE 688801
REF. 48

THANK YOU FOR
VISITING AFRICA'S
MOST AWARD WINNING
AIRPORT

COMMISSION OF INQUIRY INTO STATE CAPTURE

House Acct # Name / CoCd DocumentNo Assignment	Account holder / Document Date PayT Days	Due Date / FC gross amount	Crn / Tot.deductions in FC	Amount paid / Net amount in FC	Net amount in LC / Net amount in FC Crny
Vendor CP300	**Payment to**		**Bank Details**		
Company EFT PAYMENTS DISBURSEMENTS Kempton Park 1627	CT & A Project Management(Pty)Ltd 22 Malkhout Crescent Plattekloof 3 7500		NEDBANK CAPE TOWN Bank number: 100909 Account Number: 1009698125		
SBJIA MAIN P EFT Payment ZAR South Afr.	CT & A Project Management(Pty)Ltd	11.12.2015	ZAR	176,015.60-	176,015.60-
1010 1900631989 1217A	02.11.2015 ZB13 30	43,874.00-		0.00	43,874.00- ZAR
1010 1900631989 1232	**02.11.2015 ZB13 30**	**96,951.60-**		**0.00**	**96,951.60- ZAR**
1010 1900631989 1233	02.11.2015 ZB13 30	35,190.00-		0.00	35,190.00- ZAR
* Tot		176,015.60-		0.00	**176,015.60-** 176,015.60- ZAR

SAA CREDITORS
HEAD OFFICE
2015 -12- 11
PAID

COMMISSION OF INQUIRY INTO STATE CAPTURE

SOUTH AFRICAN AIRWAYS

EXPENSE AUTHORISATION

Vendor acc no C300-

Date: 30-Nov-15

Contract Reference:

Payment to:

CT & A Project Management (Pty) Ltd.
Nedbank, Branch code 100909
Cheque Account No.: 1009 698125

1H - Vat claimable
2H - Vat not claimable / Zero Rated

SAA Standard Payment Terms (30 DAYS FROM DATE OF STATEMENT)

Description of goods/service : Forensic Investigation

Cost Element	Cost Element Description	Cost Ctr	Invoice No	Exception Code - Purchase Order Compliance	Vat Code	Amount
916510	Independent advice	7474	1217A			43 874.00
916510	Independent advice	7474	1232			96 951.60
916510	Independent advice	7474	1233			35 190.00
						R 176 015.60

foreign currency: ZAR

Certified that the amount of ONE SEVEN SIX ZERO ONE FIVE RAND AND 60 CENTS

is due for payment.

Authorisation Matrix

	Departmental Finance Manager (Budget Checked)	Manager/ Specialist Level 3	Manager/ Specialist Level 2 Lower	Head of Department Level 2 Upper	EXCO Member Level 1	CFO	CEO	SAA Board of Directors
Up to R50K	X	X						
Up to R500K	X		X					
Up to R 5M	X			X				
Up to R 10M	X				X			
Up to R 50M	X					X		
Up to R 100M	X						X	
Above R100M	X							X

It is important to note that every financial expenditure approval is subject to the principle of two signatures, one being that of the recommender and the other signature being that of the delegated authorised approver.

All expenses greater than R500k must be submitted to the Bid Adjudication Council to ensure that the appropriate procurement policy & procedures have been followed.

Please confirm the following:

1. Procurement process has been complied with	
2. Compliance with DOA	
3. Budget facility is available for the cost element	
4. Checked VAT code	
5. Checked cost centre/cost element	

Prepared by: C Engelbrecht 30-11-2015

Print Name CORRIE ENGELBRECHT

Tel no 1515

Room no 403

Recommended & Approved by:

Finance Manager / Controller 30/11/15

Print Name FAIZAL PEER

Recommended by:

Print Name: Act. CFO:

Approved by: Act. CHIEF EXECUTIVE OFFICER

Print Name: P. Nhantsi

Approved Mulu M. Zwane Act CEO 8/12/15

Creditors - Note that no Exp. Authorisation document must be processed in SAP without a valid Exception Code

Checked in system and not previously paid:

BU number: 1010/1900631989
1000/1900009822

11/12

The PROJECT Office
Business Improvement Delivery

22 Melkhout Crescent
Platekloof 3 | 7500
Telephone Office 0861 140 141
Fax 086 617 5117

CT&A Project Management (Pty) Ltd
PO Box 15813 | Panorama | 7506
Company Reg: 99/15942/07
Vat No: 4430183535

25th August 2015

Tax Invoice
Invoice Number: 1217A

The Director
South African Airways SOC
Airways Park
Jones Road
Kempton Park
Johannesburg

Attention Ms. Yakhe Kwinana

Procurement investigation – July/August 2015

Date	SAA - financial procurement investigation	Excl vat	Vat	Total incl.
20th July - 25th august	**Billing memorandum**: Attend briefing for financial investigation. Provide proposed ToR. Further discussions and further draft. Meeting Mr Siyakhula Vilakazi Head of Internal audit. Attend meeting with A&RC and Mr Vilakazi with Ernst and Young. Further meetings with EY (x2) to review progress. Review EY interim report. Attend meeting with ARC chairperson and EY at SAA. Further consultations and telecon with EY and Chair A&R	37 800.00	5 292.00	43 092.00
	Disbursement.	685.96	96.04	782.00
	Total	38 485.96	5 388.04	43 874.00

Summary of disbursements (attached)

Disbursements	excluding	vat	Total
Gautrain OR Tambo /sandton return	249.12	34.88	284.00
Airport parking	105.26	14.74	120.00
phone calls, printing	331.58	46.42	378.00
Total disbursements	685.96	96.04	782.00

Please Note: Payment is due on presentation of invoice.
Interest will be charged at 1.6% per month on overdue amounts

Direct Payments: CT&A Project Management (Pty) Ltd.
Nedbank: Branch: 100909 Acc: 1009 698125

COMMISSION OF INQUIRY INTO STATE CAPTURE

The PROJECT Office
Business Improvement Delivery

22 Melkhout Crescent
Platteklooof 3 | 7500
Telephone Office 0861 140 141
Fax 086 617 5117

CT&A Project Management (Pty) Ltd
PO Box 15813 | Panorama | 7506
Company Reg: 99/15942/07
Vat No: 4430183535

2nd November 2015

Tax Invoice
Invoice Number: 1232

The Director
South African Airways SOC
Airways Park
Jones Road
Kempton Park
Johannesburg

Attention Ms. Yakhe Kwinana

Various matters - advice provided to the Board – October 2015

Date	SAA - Board consultation and assistance	Excl vat	Vat	Total Incl.
1st October to 28th October	Billing memorandum Providing advice to members of the Board in respect on numerous matters (47hours)	84 600,00	11 844,00	96 444,00
	Phone calls, printing	445,26	62,34	507,60
	Total	85 045,26	11906,34	96 951,60

Please Note: Payment is due on presentation of invoice.
Interest will be charged at 1.6% per month on overdue amounts

Direct Payments: CT&A Project Management (Pty) Ltd.
Nedbank: Branch: 100909 Acc: 1009 698125

The PROJECT Office
Business Improvement Delivery

22 Melkhout Crescent
Plattekloof 3 | 7500
Telephone Office 0861 140 141
Fax 086 617 5117

CT&A Project Management (Pty) Ltd
PO Box 15813 | Panorama | 7506
Company Reg: 99/15942/07
Vat No: 4430183535

2nd November 2015

Tax Invoice
Invoice Number: 1233

The Director
South African Airways SOC
Airways Park
Jones Road
Kempton Park
Johannesburg

Attention Ms. Yakhe Kwinana

Coordination of EY procurement investigation – October 2015

Date	SAA - financial procurement investigation	Excl vat	Vat	Total incl
1st October 2015 to 30th October 2015	Billing memorandum. Follow up matters with EY. Teleconference with EY. Review identified risk matters per interim report. Review documentation re AAR involvement. Feedback sessions at SAA 19th October plus review of documents discussions with EY re finalising report and outstanding matters	30 600,00	4 284,00	34 884,00
	Phone calls and printing	268,42	37,58	306,00
	Total	30 868,42	4 321,58	35 190,00

Please Note: Payment is due on presentation of invoice.
Interest will be charged at 1.6% per month on overdue amounts

Direct Payments: CT&A Project Management (Pty) Ltd.
Nedbank: Branch: 100909 Acc: 1009 698125

COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-1626

SAA Corporate & PAX
Johannesburg
Company Code: 1010

Payment proposal list for proposal run 16.10.2015/CP300
List of paid amounts

14.10.2015 / 16:02:45
Users: SBB254Q
Page: 2

House Acct P Name / CoCd DocumentNo Assignment	Account holder / Document Date PayT Days	Due Date / FC gross amount	Crc / Tot.deductions in FC	Amount paid / Net amount in FC	Net amount in LC / Net amount in FC Crcy
Vendor CP300	**Payment to**		**Bank Details**		
Company EFT PAYMENTS DISBURSEMENTS Kempton Park 1627	CT and A Project Management (Pty) Ltd Plattekloof 7500		nedbank Bank number: 190342 Account Number: 1009698125		
SBJIA MAIN E EFT Payment ZAR South Afr...	CT and A Project Management (Pty) Ltd	16.10.2015	ZAR	266,368.71-	266,368.71-
1010 1900626163 1219	25.08.2015 ZB13 30	131,945.25-	0.00		131,945.25- ZAR
1010 1900626164 1210	**30.08.2015 ZB13 30**	**37,560.00-**	**0.00**		**37,560.00- ZAR**
1010 1900626167 1216	24.08.2015 ZB13 30	96,863.46-	0.00		96,863.46- ZAR
* Tot					**266,368.71-**
		266,368.71-	0.00		266,368.71- ZAR

SAA CREDITORS
HEAD OFFICE
2015 -10- 16
PAID

Billiards

COMMISSION OF INQUIRY
INTO STATE CAPTURE

DD34-DCM-1628

SOUTH AFRICAN AIRWAYS

EXPENSE AUTHORISATION

Vendor acc no

Date: 13-Oct-15

Contract Reference:

Payment to:

CT & A Project Management (Pty) Ltd.
Invoice NO.: 1219
Nedbank, Branch code 100909
Cheque Account No.: 1009 698125

1H - Vat claimable

2H - Vat not claimable / Zero Rated

SAA Standard Payment Terms (30 DAYS FROM DATE OF STATEMENT)

Description of goods/service : Forensic Investigation

Cost Element	Cost Element Description	Cost Ctr	Invoice No	Exception Code - Purchase Order Compliance	Vat Code	Amount
916510	Independent advice	7474	1219			131 945.25
						R 131 945.25

foreign currency: ZAR

Certified that the amount of ONE THREE ONE NINE FOUR FIVE RAND AND 25 CENTS

is due for payment.

Authorisation Matrix

	Departmental Finance Manager (Budget Checked)	Manager/ Specialist Level 3	Manager/ Specialist Level 2 Lower	Head of Department Level 2 Upper	EXCO Member Level 1	CFO	CEO	SAA Board of Directors
Up to R50K	X	X						
Up to R500K	X		X					
Up to R 5M	X			X				
Up to R 10M	X				X			
Up to R 50M	X					X		
Up to R 100M	X						X	
Above R100M	X							X

It is important to note that every financial expenditure approval is subject to the principle of two signatures, one being that of the recommender and the other signature being that of the delegated authorised approver.

All expenses greater than R500k must be submitted to the Bid Adjudication Council to ensure that the appropriate procurement policy & procedures have been followed.

Please confirm the following:

1. Procurement process has been complied with	
2. Compliance with DOA	
3. Budget facility is available for the cost element	
4. Checked VAT code	
5. Checked cost centre/cost element	

Prepared by: C Engelbrecht 13/10/2015

Print Name CORRIE ENGELBRECHT

Tel no 1515

Room no 403

Recommended by: 13/10/2015

Print Name: Act. CFO: Lindsay Olitzki

Approved by: Act. CHIEF EXECUTIVE OFFICER

Print Name: THULI MPSHE

Recommended & Approved by:

Finance Manager / Controller 13/10/15

Print Name FAIZAL PEER

Creditors - Note that no Exp. Authorisation document must be processed in SAP without a valid Exception Code

Checked in system and not previously paid:

BU number: 1900626163|1010

14/10/15 1900009565|1000

COMMISSION OF INQUIRY
INTO STATE CAPTURE

The PROJECT Office
Business Improvement Delivery

22 Melkhout Crescent
Plattekloof 3 | 7500
Telephone Office 0861 140 141
Fax 086 617 5117

CT&A Project Management (Pty) Ltd
PO Box 15813 | Panorama | 7506
Company Reg: 99/15942/07
Vat No: 4430183535

25th August 2015

Tax Invoice
Invoice Number: 1219

The Director
South African Airways SOC
Airways Park
Jones Road
Kempton Park
Johannesburg

Attention Ms. Yakhe Kwinana

Various matters - advice provided to the Board – September 2015

Matter	Excl vat	Vat	Total incl.
To our fee in respect of advice provided to the Board on various matters (narration included in separate billing memorandum)	112 500.00	15 750.00	128 250.00
Disbursements	3 241.45	452.13	3 695.25
Total	115 741.45	16 202.13	131 945.25

Summary of disbursements (attached)

Disbursements	excluding	vat	Total
Sheraton Hotel	1 691.80	235.18	1928.65
Uber transport	515.44	72.16	587.60
Gautrain OR Tambo to Hatfield	143.86	20.14	164.00
Airport parking	298.25	41.75	340.00
phone calls, printing	592.11	82.89	675.00
Total disbursements	3241.45	452.13	3695.25

Please Note: Payment is due on presentation of invoice.
Interest will be charged at 1.6% per month on overdue amounts

Direct Payments: CT&A Project Management (Pty) Ltd.
Nedbank: Branch: 100909 Acc: 1009 698125

COMMISSION OF INQUIRY INTO STATE CAPTURE

Sheraton

Mr. Nicholas Linnell
South Africa

TAX INVOICE	:	184547
Membership No.	:	
Company Name	:	Central Reservations
Customer VAT No.	:	
A/R Number	:	

Room No.	:	619
Arrival	:	22/09/15
Departure	:	23/09/15
Rate Code	:	BAR
Conf. No.	:	901551374
Group Code	:	
VAT Reg. No.	:	4190147456
Company Reg. No.	:	1994/010800/07
Page No.	:	1 of 1
Cashier No.	:	146

Date	Text			Charges ZAR	Credits ZAR
22/09/15	Accomodation			1,385.00	
22/09/15	1% Tourism Levy *			13.65	
23/09/15	Magnolia Food Breakfast	CHECK# 0015926		275.00	
23/09/15	Magnolia Food Breakfast	CHECK# 0015928		275.00	
23/09/15	Mastercard	XXXXXXXXXXXX4240	XX/XX		1,928.65
			Total ZAR	1,928.65	1,928.65

Balance	0.00	ZAR
Total Incl. VAT	1915	ZAR
Non Vatable	13.65	ZAR
VAT @ 14%	235.18	ZAR
Net Amount	1,679.82	ZAR

SHERATON PRETORIA HOTEL & TOWERS
643 Cnr. Stanza Bopape and Wessels Streets, Arcadia, Pretoria | P.O. Box 26500, Arcadia 0007, Pretoria, South Africa
Tel: +27 12 429 9999 | Fax: +27 12 429 9300 | Toll Free: 0800 994 276
Email: reservations.01138@sheraton.com | Best Rates Guarantee: www.sheraton.com

COMMISSION OF INQUIRY INTO STATE CAPTURE

Nick Linnell

Invoice issued by Uber B.V. on behalf of:

uber
no 2 smarag tango str
pla
South Africa

Invoice Number: ESDXTQWW-03-2015-0000125
Invoice Date: September 23, 2015

Tax Point Date	Description	Tax Amount	Net Amount
Sep 23, 2015	Transportation service		
	Fare	—	412.68 ZAR
		Total Net	412.68 ZAR
		Gross Amount	412.68 ZAR

COMMISSION OF INQUIRY INTO STATE CAPTURE

Issued on behalf of uber by:

Uber B.V. / Vijzelstraat 68-78, 1017 HL Amsterdam / VAT: NL852071589B01 / COC #: 56317441

Nick Linnell

Invoice issued by Uber B.V. on behalf of:

Iyaphanda Medical Services
20 Erand Gardens,Erand
Midrand
South Africa

Invoice Number: PVZVTFRV-03-2015-0000256
Invoice Date: September 22, 2015

Tax Point Date	Description	Tax Amount	Net Amount
Sep 22, 2015	Transportation service		
	Fare	—	35.65 ZAR
		Total Net	35.65 ZAR
		Gross Amount	35.65 ZAR

COMMISSION OF INQUIRY INTO STATE CAPTURE

Issued on behalf of Iyaphanda Medical Services by:

Uber B.V. / Vijzelstraat 68-78, 1017 HL Amsterdam / VAT: NL852071589B01 / COC #: 56317441

Nick Linnell

Invoice issued by Uber B.V. on behalf of:

soft solutions
25 Sarah crescent,sea ward estates Ballito
ballito
South Africa

Invoice Number: HQQFQBRI-03-2015-0001498
Invoice Date: September 18, 2015

Tax Point Date	Description	Tax Amount	Net Amount
Sep 18, 2015	Transportation service		
	Fare	—	139.27 ZAR
		Total Net	139.27 ZAR
		Gross Amount	139.27 ZAR

COMMISSION OF INQUIRY INTO STATE CAPTURE

Issued on behalf of soft solutions by:

Uber B.V. / Vijzelstraat 68-78, 1017 HL Amsterdam / VAT: NL852071589B01 / COC #: 56317441

COMMISSION OF INQUIRY
INTO STATE CAPTURE

Corrie Engelbrecht

From: Nick Linnell <nickl@theprojectoffice.com>
Sent: 12 October 2015 05:24 AM
To: Wolf Meyer
Subject: RE: Invoices outstanding
Attachments: Invoice 1219 Procurement August 2015 South african Airways.pdf

Dear Corrie and Wolf
Wolf did mention to Tony that the two had been processed and I was enquiring how that was progressing. The third invoice is one related to the EY procurement enquiry which I was asked to coordinate. This is attached and I understand from Ms Kwinana that she approved this and handed to Thuli also a month ago.
I would be grateful if you would let me where these are in the pipeline.
Kind regards
Nick

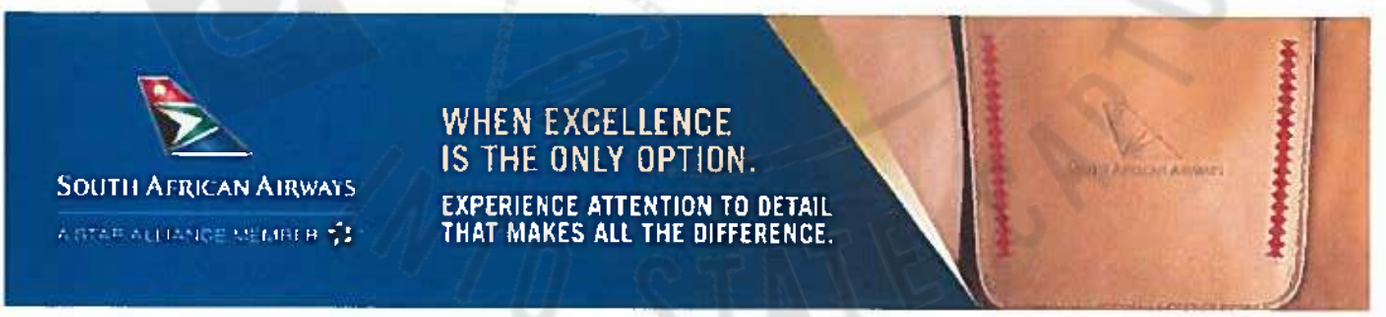
Nick Linnell

The PROJECT Office
Business Improvement Delivered

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 | Plattekloof 3 | 7500
Directors: N H Linnell | M Green
Postal Add PO Box 15813 | Panorama | 7506

From: Corrie Engelbrecht [mailto:CorrieEngelbrecht@flysaa.com] **On Behalf Of** Wolf Meyer
Sent: Thursday, 08 October 2015 8:14 AM
To: Nick Linnell
Cc: Corrie Engelbrecht
Subject: RE: Invoices outstanding



Dear Nick

I processed invoices 1210 and 1216. Kindly let me know about the other one or rather send to me please?
Thank you

Kind regards

Corrie Engelbrecht | Executive Assistant to CFO | CFO

Phone: +2711-978-1515 | Fax: +2711-978-1572 | E-Mail: CorrieEngelbrecht@flysaa.com
Room 403, Floor 4, Block C, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

From: Nick Linnell [mailto:nickl@theprojectoffice.com]
Sent: 05 October 2015 10:46 PM
To: Wolf Meyer
Subject: Invoices outstanding

Hi Wolf
Could I ask if you could enquire about 3 invoices outstanding. I know you looked into 2 of them with Tony and the 3rd is for the EY procurement project approved by Yakhe.
Many thanks
nick

Nick Linnell

The PROJECT Office
Business Improvement Delivered

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 | Plattekloof 3 | 7500
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Postal Add PO Box 15813 | Panorama | 7506

COMMISSION OF INQUIRY INTO STATE CAPTURE

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Directors

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

*Non-Executive Director

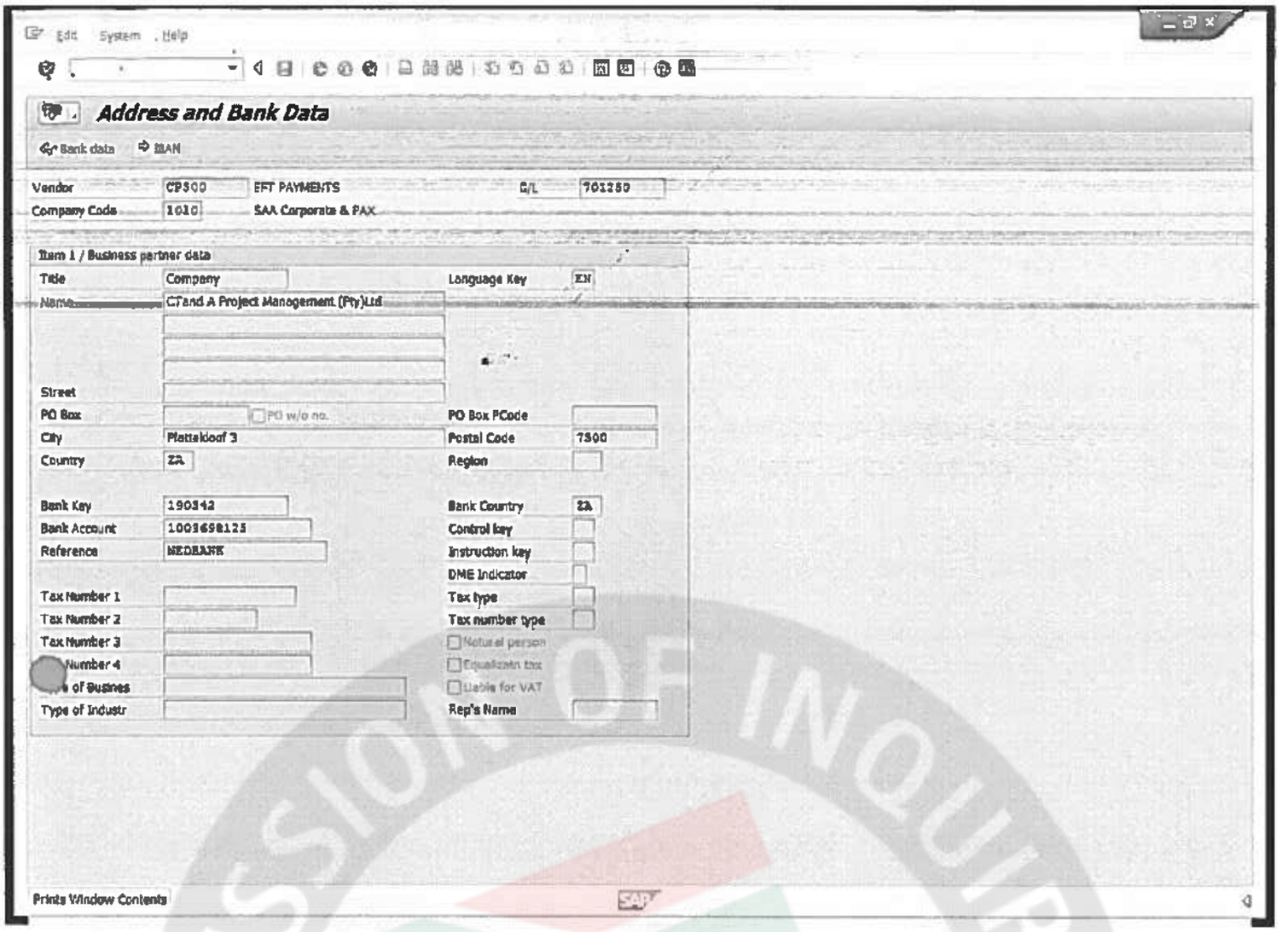
Company Secretary – Ruth Kibuuka

South African Airways SOC Ltd Reg. No. 1997/022444/30

A STAR ALLIANC

COMMISSION OF INQUIRY INTO STATE CAPTURE

COMMISSION OF INQUIRY
INTO STATE CAPTURE



Edit System Help

Address and Bank Data

Bank data IBAN

Vendor	CP300	EFT PAYMENTS	G/L	701250	
Company Code	1010	SAA Corporate & PAX			

Item 1 / Business partner data

Title	Company	Language Key	EN
Name	CTand A Project Management (Pty)Ltd		
Street			
PO Box	PO w/o no.	PO Box PCode	
City	Plattekloof 3	Postal Code	7500
Country	ZA	Region	
Bank Key	190342	Bank Country	ZA
Bank Account	1001698125	Control key	
Reference	NEDBANK	Instruction key	
		DME Indicator	
Tax Number 1		Tax type	
Tax Number 2		Tax number type	
Tax Number 3		Natural person	
Number 4		Equalization tax	
e of Busines		Liable for VAT	
Type of Industr		Rep's Name	

Prints Window Contents

COMMISSION OF INQUIRY INTO STATE CAPTURE

COMMISSION OF INQUIRY
INTO STATE CAPTURE

DD34-DCM-1642

SOUTH AFRICAN AIRWAYS

EXPENSE AUTHORISATION

Vendor acc no

Date: 06-Oct-15

Contract Reference:

Payment to:

CT & A Project Management (Pty) Ltd.
Nedbank, Branch code 100909
Cheque Account No.: 1009 698125

1H - Vat claimable

2H - Vat not claimable / Zero Rated

SAA Standard Payment Terms (30 DAYS FROM DATE OF STATEMENT)

Description of goods/service : Forensic Investigation

Cost Element	Cost Element Description	Cost Ctr	Invoice No	Exception Code *Purchase Order Compliance	Vat Code	Amount
916510	Independent advice	7474	1210			37 560 00
916510	Independent advice	7474	1216			96 863.46
						R 134 423.46

1900626164/1010
1900009566/1000

1900626167/1010
1900009567/1000

14/10/15

foreign currency: ZAR

Certified that the amount of ONE THREE FOUR FOUR TWO THREE RAND AND 46 CENTS

is due for payment.

Authorisation Matrix

	Departmental Finance Manager (Budget Checked)	Manager/ Specialist Level 3	Manager/ Specialist Level 2 Lower	Head of Department Level 2 Upper	EXCO Member Level 1	CFO	CEO	SAA Board of Directors
Up to R50K	X	X						
Up to R500K	X		X					
Up to R 5M	X			X				
Up to R 10M	X				X			
Up to R 50M	X					X		
Up to R 100M	X						X	
Above R100M	X							X

It is important to note that every financial expenditure approval is subject to the principle of two signatures, one being that of the recommender and the other signature being that of the delegated authorised approver.

All expenses greater than R500k must be submitted to the Bid Adjudication Council to ensure that the appropriate procurement policy & procedures have been followed.

Please confirm the following:

1. Procurement process has been complied with	
2. Compliance with DOA	
3. Budget facility is available for the cost element	
4. Checked VAT code	
5. Checked cost centre/cost element	

Prepared by: MEngelbrecht 06/10/2015

Print Name CORRIE ENGELBRECHT

Tel no 1515

Room no 403

Recommended & Approved by: 06/10/15

Finance Manager / Controller

Print Name FAIZAL PEER

Recommended by: 06/10/2015

Print Name: CFO: WOLF MEYER

Approved by: Act. CHIEF EXECUTIVE OFFICER

Print Name: THULI MPSHE 7/10/15

This approval is based on the Tony Dixon's recommendation for payment.

Creditors - Note that no Exp. Authorisation document must be processed in SAP without a valid Exception Code

Checked in system and not previously paid: BU number:

COMMISSION OF INQUIRY
INTO STATE CAPTURE

The PROJECT Office
Business Improvement Delivery

22 Melkhout Crescent
Platteklooof 3 | 7500
Telephone Office 0861 140 141
Fax 086 617 5117

CT&A Project Management (Pty) Ltd
PO Box 15813 | Panorama | 7506
Company Reg: 99/15942/07
Vat No: 4430183535

30th June 2015

Tax Invoice
Invoice Number: 1210

Chairperson
South African Airways SOC
Airways Park
Jones Road
Kempton Park
Johannesburg

Various advices provided to the Board – May/June 2015

Date	Matter	Excl vat	Vat	Total Incl.
1st May to 25th June	To our fee for advise to the sub committee and Board regarding the Kalawe investigations and related matters for December 2014 and January 2015- see billing memorandum attached)	32 300.00	4 522.00	36 822.00
	Disbursements	647.37	90.63	738.00
	Total	32 947.37	4 612.63	37 560.00

See billing memorandum overleaf/...

Please Note: Payment is due on presentation of invoice.
Interest will be charged at 1.6% per month on overdue amounts

Direct Payments: CT&A Project Management (Pty) Ltd.
Nedbank: Branch: 100909 Acc: 1009 698125

COMMISSION OF INQUIRY INTO STATE CAPTURE

Billing memorandum

Date	SAA - kalawe investigation	Excl vat	Vat	Total incl.
1st May to 25th June	**Billing memorandum** Drafting minutes and resolution of Board in respect of meeting held at ENS 21st April for Tony Dixon. Discussions and correspondence with George van niekerk and Steven Powel of ENS regarding the Hawks investigation into the Paul O'Sullivan and Abe Mbulawa purchasing of forged bank statements. Attend meeting in Durban on 8th June 2015 with Chairperson, George van Niekerk of ENS and Hawks Investigators. Correspondence with George van Niekirk regarding Directors liability policy with AIG and Wallis brokers. Review of policy wording and writting memorandum regarding directors claims including claims of Kalawe and Chairperson for legal expenses. Drafting financial investigation motivation on behalf of Ms Kwinana. Further discussions and correspondecne with George Van Niekirk regarding directors liability policy.	32 300.00	4 522.00	36 822.00
	Disbursement.	647.37	90.63	738.00
	Total	32 947.37	4 612.63	37 560.00

Summary of disbursements (attached)

Disbursements	excluding	vat	Total
Airport parking (8th June 2015	105.26	14.74	120.00
Car hire Hertz 8th June durban	258.77	36.23	295.00
phone calls, printing	283.33	39.67	323.00
Total disbursements	647.37	90.63	738.00

3DA

AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930138393
TAX INVOICE C1
NO:180081933
ENTRY TIME:
06/08/15 09:48
EXIT TIME:
06/08/15 21:23
PARK-DUR.: HRS:MIN

0:11:35:
AMOUNT:
120.00

VAT INCL @ 14%:
VISA
490137O1XXXX3032
XXXXX 201
AUTH. CODEJN06853
REF. 4

THANK YOU FOR YOUR
VISIT

COMMISSION INQUIRY INTO STATE CAPTURE

DD34-DCM-1647

Hertz

Hertz Rent a Car, a division of
Unitrans Automotive (Pty) Ltd
Hertz International Franchisee
Company No: 1997/009861/07
Vat No: 4230169692

Suite 301, 3rd Floor,
ExecuJet Business Centre, Tower Road,
Cape Town International Airport, 7525
Web: www.hertz.co.za
Tel No: +27 21 935 4800
Fax: +27 21 935 3243
Email: cust.relations@hertz.co.za

RENTAL FORM/TAX INVOICE 82955562-4 **TAX POINT:08-06-15**

- - - RENTER'S DETAILS - - -

Driver: NICHOLAS LINNELL
10 PERRED CRS
CAPETOWN ZA, 7806

License: 06-11-16/600300000BHH/ZA/05-01-51
Tax ID: LINNELL

C/Card: XXXXXXXXXXX34240

CSR: HZATMO/WALK10/FC//010/WALK/MDMR/MDMR
Conf#/Res#: /

- - - RENTAL DETAILS - - -

Vehicle: I10 1.25 FLUID MANUAL HATCH
Reg No: DF20VMGP 817318-9 WHITE
Damage:
Kms Included: 100/Day Extra Kms: 1.650/Km

	Out	CheckIn	Used
Location:	DUR51	DUR51	DUR51
Date:	08-06-15	08-06-15	DAYS
Time:	14:13	18:35	4 HOURS
Kilometers:	12334	12373	39
Fuel:	FULL	FULL	0/8

- - - INSURANCE AND COVERAGE DECLARATION - - -

OPTIONAL COVERAGES	@ Rate/Day		LIABILITY
Collision Damage Waiver	36.84	ACCEPT	R 3000.00
Theft Protection Waiver	24.56	ACCEPT	R 3000.00
Personal Accident Ins	17.54	DECLINE	N/A
Super Waiver	78.95	ACCEPT	R 3000.00
Tyre Waiver		DECLINE	Full Value
Windscreen Waiver		DECLINE	Full Value

In each event of Damage and/or Total Loss to the Vehicle, the Renter agrees to pay the liability shown in the table above. Full Value means the entire value of the Damage and/or Total Loss. Windscreen & Tyre Waivers cover the first R5000.00 of the cost of the Damage.

- - HOW WAS YOUR EXPERIENCE? - -

Visit www.hertzsurvey.eu and enter
Rental Record number: 829555624
Access Code: ZADUR51
and take our brief survey.

- - CHARGES - -

ITEMS	QTY	RATE	CHARGE
Rental	1 Day @	230.00 R	230.00
Total Time/Kilometers			230.00
V.A.T.	28.25	Included in Total	
TOUR LEVY		Included in rate	
CONT FEE	1 @	57.02 R	57.02
AP SRCHG		Included in rate	
CDW		Included in rate	
TP		Included in rate	
SW		Included in rate	
Taxable Charges Sub-total			57.02
V.A.T.	14.000%	R	7.98
Total Charges		R	295.00
Less Deposits paid		R	-3245.00
Less Credit Given		R	2950.00
BALANCE DUE FROM RENTER(S)		R	0.0

Charges paid in transaction currency:

MC	R	3245.00	ZAR	3245.00
MC	R	-2950.00	ZAR	-2950.00

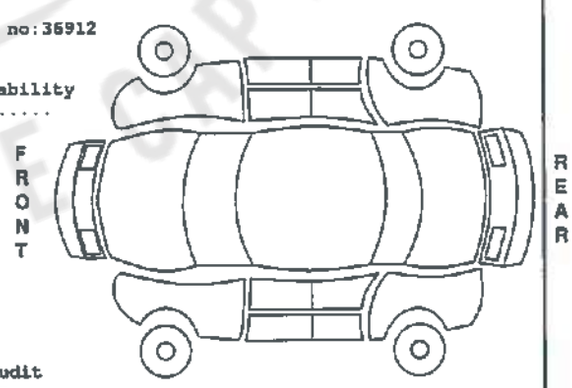
THE RENTER RETURNED THE RENTED VEHICLE TO:
DUR51
KING SHAKA
INTERNATIONAL AIRPORT
KING SHAKA DRIVE
Tel: 032-436 0300

MC/XXXXXXXXXXX34240/0816/633418/3245.00
MC/XXXXXXXXXXX34240/0816//-2950.00

Note: the Renter will be liable for the following fees in the event of any accident or traffic infringement:
Processing fee, R250.00
Rental Overdue Administration fee, R500.00
Loss/Damage Administration fee, R550.00

In addition the Renter may be liable for the following fees where applicable:
Replacement fee for lost/damaged/stolen e-tag: R600.00; GPS: R1500.00
Valet fee, R450.00
E-tolls, standard tariff (uncapped) as prescribed in the Government Gazette no:36912
Fuel, calculated as described in the Terms and Conditions of Rental
Contract Fee, R65.00
Deposit: 1) R1650.00 + 2) Estimated rental + 3) 50% First Amount Payable/Liability
NB: Banks can take up to 21 working days to refund rental deposits. Sign:.....
Declaration by Renter:

The Renter understands the risks in renting a vehicle from the Lessor as well as the liabilities in event of damage or loss of the vehicle. The Renter confirms that if it is agreed that payment hereunder is to be made by credit card or charge card the Renter's signature below shall constitute irrevocable authority to debit the nominated credit card or charge card with the total amount due. Every person whose signature appears on this Rental Form/Invoice shall be liable jointly and severally for the payment of all amounts due to the Lessor in terms of or pursuant to the Rental Agreement.



The Renter acknowledges that this Rental Form/Invoice is subject to final audit and must be read together with the Terms and Conditions of Rental printed on the reverse of this document, that it understands the terms and conditions of this Rental Agreement and is aware of all the terms thereof, particularly those printed in bold.
SIGNED AS RENTER(S): **SIGNED ON BEHALF OF HERTZ:**

The PROJECT Office
Business Improvement Delivery

22 Melkhout Crescent
Plattekloof 3 | 7500
Telephone Office 0861 140 141
Fax 086 617 5117

CT&A Project Management (Pty) Ltd
PO Box 15813 | Panorama | 7506
Company Reg: 99/15942/07
Vat No: 4430183535

24th August 2015

Tax Invoice
Invoice Number: 1216

The Director
South African Airways SOC
Airways Park
Jones Road
Kempton Park
Johannesburg

Attention Mr. Tony Dixon

Various advices provided to the Board – July/August 2015

Billing memorandum: matters instructed in Mr T Dixon email dated 28th July

1	Item 1. of instruction. Provide advice on matter.. Discussions and correspondence with Board members and Brian Pattison, further discussions with Board members. Further discussions with Board members. Review of contract and arrangements for signature	21 600.00		
2	Item 2 of instruction. Provide advise on confidentual matter for Board	7 200.00		
3	Item 3 of instruction. Provide advise on confidentual matter	5 400.00		
4	Item 4 of instruction. Provide advice on confidentual Board matter (no charge as part of preparation for facilitation)	-		
5	Item 5 of instruction. Provide advice on confidentual Board matter (no charge part of preparation for facilitation)	-		
6	Item 6 of instruction. -outstanding)	-		
7	Board facilitation. Preparation.Travel to Durban (4th) and Johannesburg (5th and 7th) further time allocated to 8th August and meeting 18th August in Johannesburge	41 400.00		
	Total fees	75 600.00	10 584.00	86 184.00
	Total disbursement.	9 378.43	1 301.03	10 679.46
	Invoice Total	84 978.43	11 885.03	96 863.46

Summary of disbursements (attached)

Disbursements	excluding	vat	Total
Airport parking (4th and 7th and 18th August 2015)	535.09	74.91	610.00
Flights to CT Durban Mango 4th August	1 663.11	230.21	1893.32
Return flight Dbn to CT BA 4th August	955.72	132.00	1087.72
Flight CT to OR Tambo 18th August	3 894.86	542.66	4437.52
Hotel accommodation	1 666.49	228.41	1894.90
phone calls, printing	663.16	92.84	756.00
Total disbursements	9378.43	1301.03	10679.46

Please Note: Payment is due on presentation of invoice.
Interest will be charged at 1.6% per month on overdue amounts

Direct Payments: CT&A Project Management (Pty) Ltd.
Nedbank: Branch: 100909 Acc: 1009 698125

AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930138393
TAX INVOICE C1
NO:180073587
ENTRY TIME:
08/06/15 09:57
EXIT TIME:
08/07/15 18:27
PARK-DUR.: HRS:MIN

1:08:30:
AMOUNT:
270.00

VAT INCL @ 14%:
MASTER CARD
55205784XXXX4240
XXXXX 201
AUTH. C0747801494
REF. 80

THANK YOU FOR YOUR
VISIT

AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930138393
TAX INVOICE C4
NO:180142228
ENTRY TIME:
08/04/15 05:38
EXIT TIME:
08/04/15 20:55
PARK-DUR.: HRS:MIN

0:15:17:
AMOUNT:
170.00

VAT INCL @ 14%:
MASTER CARD
55205784XXXX4240
XXXXX 201
AUTH. C0748108515
REF. 76

THANK YOU FOR YOUR
VISIT

COMMISSION OF INQUIRY INTO STATE CAPTURE

COMPUTER GENERATED TAX INVOICE

BRITISH AIRWAYS

Number: IN0000027663
Date: 12 August 2015

Contact Person: Nick Linnell
Address: Jane Parade Crescent
Constantia
Cape Town
4806
Western Cape
South Africa
Contact Number: +27 83 488 1000

Ticket Information

Flight	Sector	Departure Date
BA6306	DURCPT	04 August 2015

Traveller Details

Ticket Number - Passenger Name	Email Address
1258529011582 - LINNELL/NICHOLAS MR	SADEY.SUBJEE@COMAIR.CO.ZA

Description

Airline Tickets - Reference Number	YYX8SG

Fare Breakdown

	Fare Excluding Vat	EV	UM	YQ	ZA
Adults	250.00 ZAR	18.72 ZAR	24.00 ZAR	633.00 ZAR	127.00 ZAR

	Total p/p excl Fare Vat	ZV	Number	Total
Adults	1052.72 ZAR	35.00 ZAR	1	1087.72 ZAR

Total Ticket Value Inc Airport Taxes, exc ZV:	1052.72 ZAR
ZV(VAT on fare):	35.00 ZAR
Total Paid:	1087.72 ZAR
Total VAT Claimable:	132.00 ZAR

Thank you for choosing to fly with us

Claimable VAT calculation for vendor:
ZV + (UM x 14/114) + (YQ x 14/114) + (ZA x 14/114) = vendor claimable VAT portion
35.00 + (24.00 x 14/114) + (633.00 x 14/114) + (127.00 x 14/114) = 132.00 ZAR

Taxes and other charges
ZV - VAT
EV - Passenger safety charge
UM - ACSA Passenger Service Security Charge inclusive of 14% VAT
ZA - ACSA Passenger Service Charge for departing from a South African airport inclusive of 14% VAT
YQ - Fuel and Insurance Surcharge inclusive of 14% VAT

SOUTH AFRICAN AIRWAYS

A STAR ALLIANCE MEMBER

South African Airways (SOC) LTD
Company Registration Number : 1997/022444/07
Vat Registration Number : 4260 170 990

Private Bag x 13
JHB International Airport
1627

Inv Number: 832123744147

COMPUTER GENERATED TAX INVOICE

Ticket Issue Date: 2015/08/03

LINNELL/NICHOLASMR
THE PROJECT OFFICE
MELKHOUT CRESCENT
PLATTEKLOOF
CAPE TOWN

7836

Vat Registration No : 4430183535
Air Ticket Number : 832123744147 -CONJ
Original Air Ticket Number : N/A
Order No :
Cost Centre Number :
Card Number :

TICKET INFORMATION

Flight Information

FLIGHT	Leaving From	To	Departure Date
SA2102	CPT	DUR	2015/08/04

Passenger Details

PASSENGER NAME	EMAIL ADDRESS
LINNELL/NICHOLASMR	NICKL@THEPROJECTOFFICE.COM

DESCRIPTION	
Airline Tickets - Reference Number :	YYX54J

FARE BREAKDOWN	Amount (ZAR)
Fare ZAR	990.00
VAT @ 14%	138.60
ZA - Passenger Service Charge inclusive of 14% VAT	127.00
YR - Fuel Levy charge inclusive of 14% VAT - only in respect of Domestic Travel	595.00
EV - Civil Aviation Aircraft Passenger Safety Charge VAT 14% not applicable	18.72
DV Fee - Voyager change/expediting fees inclusive of 14% VAT (International reservations - VAT not applicable)	.00
DU Fee - Change fees on Domestic Reservations inclusive of 14% VAT (International Reservations VAT not Applicable)	.00
OC Fee - Airport /City Office Service Charge inclusive of 14% VAT	.00
UM Fee - Passenger Security Charge - inclusive of 14% VAT	24.00
OE - Fee - Carbon Emission Contribution VAT 14% not applicable	.00
YQ - Fuel Levy charge inclusive of 14% VAT - only in respect of Domestic Travel on SA EXPRESS or SA AIRLINK	.00
OTHER - All other Passenger Service Charges VAT 14% not applicable	.00
TOTAL INCL. VAT	1,893.32
VAT CLAIMABLE	230.21

Note
A Tax Invoice where your ticket has been changed/upgraded will only reflect the additional amount paid(or zero Amount if no amount
Only the first four legs of the itinerary will be displayed

Thank you for flying South African Airways

CONJ-Multiple Tickets were issued for this itinerary. Taxes are collected on the first ticket only.

MISSION OF INQUIRY INTO STATE CAPTURE



South African Airways (SOC) LTD
Company Registration Number : 1997/0224444/07
Vat Registration Number : 4260 170 990

Private Bag x 13
JHB International Airport
1627

COPY COMPUTER GENERATED TAX INVOICE

Inv Number: 832123808964

Ticket Issue Date: 2015/08/18

LINNELL/NICKMR
The Project Office
The Project Office
22 Melkhout Crescent
Plattekloof 3
Cape Town
7500

Vat Registration No :4430183535
Air Ticket Number :832123808964 -CONJ
Original Air Ticket Number :N/A
Order No :
Cost Centre Number :
Card Number :

TICKET INFORMATION

Flight Information

FLIGHT	Leaving From	To	Departure Date
SA326	CPT	JNB	2015/08/18

Passenger Details

PASSENGER NAME	EMAIL ADDRESS
LINNELL/NICKMR	LINNELL@IAFRICA.COM

DESCRIPTION

Airline Tickets - Reference Number :	ZPIKMI

FARE BREAKDOWN

	Amount (ZAR)
ZAR	2,870.00
@ 14%	401.80
ZA - Passenger Service Charge inclusive of 14% VAT	127.00
YR - Fuel Levy charge inclusive of 14% VAT - only in respect of Domestic Travel	796.00
EV - Civil Aviation Aircraft Passenger Safety Charge VAT 14% not applicable	18.72
DV Fee - Voyager change/expediting fees inclusive of 14% VAT (International reservations - VAT not applicable)	.00
DU Fee - Change fees on Domestic Reservations inclusive of 14% VAT (International Reservations VAT not Applicable)	.00
OC Fee - Airport /City Office Service Charge inclusive of 14% VAT	200.00
UM Fee - Passenger Security Charge - inclusive of 14% VAT	24.00
OE - Fee - Carbon Emission Contribution VAT 14% not applicable	.00
YQ - Fuel Levy charge inclusive of 14% VAT - only in respect of Domestic Travel on SA EXPRESS or SA AIRLINK	.00
OTHER - All other Passenger Service Charges VAT 14% not applicable	.00
TOTAL INCL VAT	4,437.52
VAT CLAIMABLE	542.68

Note
A Tax Invoice where your ticket has been changed/upgraded will only reflect the additional amount paid/or zero amount if no amount
Only the first four legs of the itinerary will be displayed

Thank you for flying South African Airways

CONJ-Multiple Tickets were issued for this itinerary. Taxes are collected on the first ticket only.

COMMISSION OF INQUIRY INTO STATE CAPTURE

DAVINCI
HOTEL AND SUITES
ON NELSON MANDELA SQUARE

Mr Nick Linnell
South Africa

INVOICE

Room No.	:	0621
Arrival	:	06/08/15
Departure	:	07/08/15
Confirmation No.	:	7309282
Page No.	:	1 of 1
Folio No./Inv. No.	:	105144/
VAT Reg. No.	:	4740254315
Membership Level	:	SILVER
Membership Number:		0834881000

Company Name	: Edward Nathan Sonnenbergs
User ID	: CORRIEH,
Cust. VAT Reg.No.	: 4760231193
Reference	:

Date	Description / Reference		Exchange Rate	Charges ZAR	Credits ZAR
06/08/15	Gratuities - Maximillien Micros	19:46 Room# 0621 : CHECK# 0054732 [23]		35.00	
06/08/15	Maximillien Restaurant	Room# 0621 : CHECK# 0054732		150.00	
06/08/15	Maximillien Restaurant	Room# 0621 : CHECK# 0054732		45.00	
06/08/15	Accommodation			1,650.00	
06/08/15	Tourism Levy			14.90	
07/08/15	Master Card				1,894.90
			Total	1,894.90	1,894.90

As a Legacy Lifestyle member you have earned 102.00 Lifestyle Rands

Accommodation	82.50
Food, Beverage and Sundries	19.50
	102.00

Reward amount subject to verification and is inclusive of 20% admin fee. The values shown are applicable if account not settled by any redemption of Lifestyle Rands

Balance Due	0.00 ZAR
Total Incl. VAT	1,894.90 ZAR
Net Amount	1,666.49 ZAR
Non Vatable Total	35.00 ZAR
Vatable Total	1,859.90 ZAR
14% VAT	228.41 ZAR

It has been a pleasure to have you staying at our hotel! We look forward to welcoming you back in the future.

LEGACY
...inspires

Leonardo Da Vinci Hotel and Suites (Pty) Ltd
Reg No. 2004/013503/07
Corner Maude and 5th Street, Sandton · Private Bag X10059, Sandton, South Africa, 2146
www.legacyhotels.com · davinci@legacyhotels.com
Central Reservations: Tel +27 11 806 6888 · Fax +27 11 806 6899 · hotels@legacyhotels.com
Directors: AH Dorrestein, NG Yates, BIM Foden, NM Wessels

DAVINCI Hotel and Suites is committed to the environment and all paper is now 100% recycled.

DD34-DCM-1654

SAA Corporate & PAX
Johannesburg
Company Code: 1010

Payment proposal list for proposal run 08.01.2016/CP300
List of paid amounts

06.01.2016 / 11:06:30
Users: SBB2540
Page: 1

House Acct P Name	Account holder	Due Date	Crc	Amount paid	Net amount in LC
CoCd DocumentNo Assignment	Document Date PayT Days	FC gross amount	Tot.deductions in FC	Net amount in FC	Crcy

Vendor CP300
Company
EFT PAYMENTS
DISBURSEMENTS
Kempton Park
1627

Payment to
CT and A Project Management(Pty)Ltd
Plattekloof
7500

Bank Details
nedbank
Bank number: 190342
Account Number: 1009698125

SBJIA MAIN E EFT Payment ZAR South Afr..					CT and A Project Management (Pty) Ltd	08.01.2016	ZAR	104,727.80-	104,727.80-
1010 1900633467 1236	29.11.2015	ZB13	30		79,887.80-		0.00		79,887.80- ZAR
1010 1900633467 1237	**29.11.2015**	**ZB13**	**30**		**24,840.00-**		**0.00**		**24,840.00- ZAR**
* Tot									**104,727.80-**
					104,727.80-		0.00		104,727.80- ZAR

SAA CREDITORS
HEAD OFFICE
2016 -01- 08
PAID:

COMMISSION OF INQUIRY
INTO STATE CAPTURE

SOUTH AFRICAN AIRWAYS

EXPENSE AUTHORISATION

Vendor acc no CL300 4

Date: 10-Dec-15

Contract Reference:

Payment to:

CT & A Project Management (Pty) Ltd.
Nedbank, Branch code 100909
Cheque Account No.: 1009 698125

1H - Vat claimable

2H - Vat not claimable / Zero Rated

SAA Standard Payment Terms (30 DAYS FROM DATE OF STATEMENT)

Description of goods/service : Forensic Investigation

Cost Element	Cost Element Description	Cost Ctr	Invoice No	Exception Code *Purchase Order Compliance	Vat Code	Amount
916510	Independent advice	7474	1236			79 887.80
916510	Independent advice	7474	1237			24 840.00
						R 104 727.80

foreign currency: ZAR

Certified that the amount of ONE ZERO FOUR SEVEN TWO SEVEN RAND AND 80 CENTS

is due for payment.

Authorisation Matrix

	Departmental Finance Manager (Budget Checked)	Manager/ Specialist Level 3	Manager/ Specialist Level 2 Lower	Head of Department Level 2 Upper	EXCO Member Level 1	CFO	CEO	SAA Board of Directors
Up to R50K	X	X						
Up to R500K	X		X					
Up to R 5M	X			X				
Up to R 10M	X				X			
Up to R 50M	X					X		
Up to R 100M	X						X	
Above R100M	X							X

It is important to note that every financial expenditure approval is subject to the principle of two signatures, one being that of the recommender and the other signature being that of the delegated authorised approver.

All expenses greater than R500k must be submitted to the Bid Adjudication Council to ensure that the appropriate procurement policy & procedures have been followed.

Please confirm the following:

1. Procurement process has been complied with	
2. Compliance with DOA	
3. Budget facility is available for the cost element	NO BUDGET
4. Checked VAT code	
5. Checked cost centre/cost element	

Prepared by: A Engelbrecht 10/12/2015

Print Name CORRIE ENGELBRECHT

Tel no 1515

Room no 403

Recommended by:

Print Name: Act. CFO: Phumeza Nhantsi

Approved by: Act. CHIEF EXECUTIVE OFFICER

Print Name: MUSA M. ZWANE

Recommended & Approved by:

Finance Manager / Controller

Print Name FAIZAL PEER 11/12/15

Creditors - Note that no Exp. Authorisation document must be processed in SAP without a valid Exception Code

Checked in system and not previously paid:

BU number: 1900633467/1010

6/1/16 1900009882/1000

COMMISSION OF INQUIRY
INTO STATE CAPTURE



22 Melkhout Crescent
Plattekloof 3 | 7500
Telephone Office 0861 140 141
Fax 086 617 5117

CT&A Project Management (Pty) Ltd
PO Box 15813 | Panorama | 7506
Company Reg: 99/15942/07
Vat No: 4430183535

29th November 2015

Tax Invoice
Invoice Number: 1236

The Director
South African Airways SOC
Airways Park
Jones Road
Kempton Park
Johannesburg

Attention Ms. Yakhe Kwinana

Various matters - advice provided to the Board – November 2015

Date	SAA - Board consultation and assistance	Excl vat	Vat	Total incl.
1st November to 29th November	Billing memorandum: Providing advice to members of the Board in respect on numerous matters (38.5 hours)	69 300,00	9 702,00	79 002,00
	Phone calls, printing	777,02	108,78	885,80
	Total	70 077,02	9 810,78	79 887,80

Disbursements

Disbursements	excluding	vat	Total
phone calls, printing	364,74	51,06	415,80
Airport parking	412,28	57,72	470,00
Total disbursements	777,02	108,78	885,80

Please Note: Payment is due on presentation of invoice.
Interest will be charged at 1.6% per month on overdue amounts

Direct Payments: CT&A Project Management (Pty) Ltd.
Nedbank: Branch: 100909 Acc: 1009 698125

COMMISSION OF INQUIRY INTO STATE CAPTURE

AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930138393
TAX INVOICE C4
NO:1900044157
ENTRY TIME:
11/23/15 11:34
EXIT TIME:
11/25/15 14:53
PARK-DUR.: HRS:MIN

2:03:19

AMOUNT:
470.00

VAT INCL @ 14%:
MASTER CARD
552057**XXXX4240
XXXXX 201
AUTH. C0748107288
REF. 48

THANK YOU FOR YOUR
VISIT

COMMISSION OF INQUIRY INTO STATE CAPTURE

The PROJECT Office
Business Improvement Delivery

22 Melkhout Crescent
Platteklooof 3 | 7500
Telephone Office 0861 140 141
Fax 086 617 5117

CT&A Project Management (Pty) Ltd
PO Box 15813 | Panorama | 7506
Company Reg: 99/15942/07
Vat No: 4430183535

29th November 2015

Tax Invoice
Invoice Number: 1237

The Director
South African Airways SOC
Airways Park
Jones Road
Kempton Park
Johannesburg

Attention Ms. Yakhe Kwinana

Procurement investigation – November 2015

Date	SAA - financial procurement investigation	Excl vat	Vat	Total incl.
1st November to 29th November 2015	Billing memorandum. Correspondence and telecons with EY with regard to final report. Review report finding	21 600,00	3 024,00	24 624,00
	Phone calls and printing	189,47	26,53	216,00
	Total	21 789,47	3 050,53	24 840,00

Summary of disbursements (attached)

Disbursements	excluding	vat	Total
phone calls, printing	189,47	26,53	216,00
Total disbursements	189,47	26,53	216,00

Please Note: Payment is due on presentation of invoice.
Interest will be charged at 1.6% per month on overdue amounts

Direct Payments: CT&A Project Management (Pty) Ltd.
Nedbank: Branch: 100909 Acc: 1009 698125

COMMISSION OF INQUIRY INTO STATE CAPTURE

COMMISSION OF INQUIRY
INTO STATE CAPTURE

SOUTH AFRICAN AIRWAYS

EXPENSE AUTHORISATION

Vendor acc no

Date: 5-Jan-16

Contract Reference:

Payment to

CT&A PROJECT MANAGEMENT OFFICE
NEDBANK BRANCH: 100909
ACCOUNT NUMBER: 1009 698 125

1H - Vat claimable
2H - Vat not claimable / Zero Rated

SAA Standard Payment Terms (30 DAYS FROM DATE OF STATEMENT)

Description of goods/service : Forensic Investigation

Cost Element	Cost Element Description	Cost Ctr	Invoice No	Exception Code ~Purchase Order Compliance	Vat Code	Amount
916510		7474				79 887.80
						R 79,887.80

foreign currency: ZAR

Certified that the amount of: Two hundred and ninety four rand and fifty one cents only

is due for payment

Authorisation Matrix

	Departmental Finance Manager (Budget Checked)	Manager/ Specialist Level 3	Manager/ Specialist Level 2 Lower	Head of Department Level 2 Upper	EXCO Member Level 1	CFO	CEO	SAA Board of Directors
Up to R50K	X	X						
Up to R500K	X		X					
Up to R 5M	X			X				
Up to R 10M	X				X			
Up to R 50M	X					X		
Up to R 100M	X						X	
Above R100M	X							X

It is important to note that every financial expenditure approval is subject to the principle of two signatures, one being that of the recommender and the other signature being that of the delegated authorised approver.

All expenses greater than R500k must be submitted to the Bid Adjudication Council to ensure that the appropriate procurement policy & procedures have been followed

Paid already

Please confirm the following:

1. Procurement process has been complied with	
2. Compliance with DOA	
3. Budget facility is available for the cost element	
4. Checked VAT code	
5. Checked cost centre/cost element	

Prepared by:

Print Name Fundiswa Goduka

Tel no 6329

Room no 6th floor

Recommended by:

Print Name Thumeza Nhantsi (ACFO)

Approved by:

Print Name Musa Zwane (ACEO)

Recommended & Approved by:

Finance Manager / Controller

Print Name

Creditors - Note that no Exp. Authorisation document must be processed in SAP without a valid Exception Code

Checked in system and not previously paid: BU number:

COMMISSION OF INQUIRY
INTO STATE CAPTURE

The PROJECT Office
Business Improvement Delivery

22 Melkhout Crescent
Plattekloof 3 | 7500
Telephone Office 0861 140 141
Fax 086 617 5117

CT&A Project Management (Pty) Ltd
PO Box 15813 | Panorama | 7506
Company Reg: 99/15942/07
Vat No: 4430183535

29th November 2015

Tax Invoice
Invoice Number: 1236

The Director
South African Airways SOC
Airways Park
Jones Road
Kempton Park
Johannesburg

Attention Ms. Yakhe Kwinana

Various matters - advice provided to the Board – November 2015

Date	SAA - Board consultation and assistance	Excl vat	Vat	Total incl.
1st November to 29th November	Billing memorandum: Providing advice to members of the Board in respect on numerous matters (38.5 hours)	69 300,00	9 702,00	79 002,00
	Phone calls, printing	777,02	108,78	885,80
	Total	70 077,02	9 810,78	79 887,80

Disbursements

Disbursements	excluding	vat	Total
phone calls, printing	364,74	51,06	415,80
Airport parking	412,28	57,72	470,00
Total disbursements	777,02	108,78	885,80

Please Note: Payment is due on presentation of invoice.
Interest will be charged at 1.6% per month on overdue amounts

Direct Payments: CT&A Project Management (Pty) Ltd.
Nedbank: Branch: 100909 Acc: 1009 698125

COMMISSION OF INQUIRY INTO STATE CAPTURE

AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930130393
TAX INVOICE C4
NO:190004157
ENTRY TIME :
11/23/15 11:34
EXIT TIME :
11/25/15 11:53
PARK-DUR.: HRS:MIN
2:03:19
AMOUNT :
470.00

VAT INCL @ 14% :
MASTER CARD
552057******4240
XXXX 201
AUTH. C0748107286
REF. 49

THANK YOU FOR YOUR
VISIT

COMMISSION OF INQUIRY INTO STATE CAPTURE

SOUTH AFRICAN AIRWAYS

EXPENSE AUTHORISATION

Vendor acc no

Date: 5-Jan-16

Contract Reference:

Payment to:

CT&A PROJECT MANAGEMENT OFFICE
NEDBANK BRANCH: 100909
ACCOUNT NUMBER: 1009 698 125

1H - Vat claimable
2H - Vat not claimable / Zero Rated

SAA Standard Payment Terms (30 DAYS FROM DATE OF STATEMENT)

Description of goods/service : Forensic Investigation

Cost Element	Cost Element Description	Cost Ctr	Invoice No	Exception Code - Purchase Order Compliance	Vat Code	Amount
916510		7474				24 840.00
						R 24,840.00

PAID ALREADY.

Foreign currency: ZAR

Certified that the amount of: Two hundred and ninety four rand and fifty one cents only

is due for payment.

Authorisation Matrix

	Departmental Finance Manager (Budget Checked)	Manager/ Specialist Level 3	Manager/ Specialist Level 2 Lower	Head of Department Level 2 Upper	EXCO Member Level 1	CFO	CEO	SAA Board of Directors
Up to R50K	X	X						
Up to R500K	X		X					
Up to R 5M	X			X				
Up to R 10M	X				X			
Up to R 50M	X					X		
Up to R 100M	X						X	
Above R100M	X							X

It is important to note that every financial expenditure approval is subject to the principle of two signatures, one being that of the recommender and the other signature being that of the delegated authorised approver.

All expenses greater than R500k must be submitted to the Bid Adjudication Council to ensure that the appropriate procurement policy & procedures have been followed.

Please confirm the following:

1. Procurement process has been complied with	
2. Compliance with DOA	
3. Budget facility is available for the cost element	
4. Checked VAT code	
5. Checked cost centre/cost element	

Prepared by:

Print Name: Funciswa Goduka

Tel no: 6329

Room no: 6th floor

Recommended by:

Print Name: Phumeza Nhantsi (ACFO)

Approved by:

Print Name: Musa Zwane (ACEO)

Recommended & Approved by:

Finance Manager / Controller

Print Name

Creditors - Note that no Exp. Authorisation document must be processed in SAP without a valid Exception Code

Checked in system and not previously paid: **BU number:**

COMMISSION OF INQUIRY
INTO STATE CAPTURE



22 Melkhout Crescent
Plattekloof 3 | 7500
Telephone Office 0861 140 141
Fax 086 617 5117

CT&A Project Management (Pty) Ltd
PO Box 15813 | Panorama | 7506
Company Reg: 99/15942/07
Vat No: 4430183535

29th November 2015

Tax Invoice
Invoice Number: 1237

The Director
South African Airways SOC
Airways Park
Jones Road
Kempton Park
Johannesburg

Attention Ms. Yakhe Kwinana

Procurement investigation – November 2015

Date	SAA - financial procurement investigation	Excl vat	Vat	Total incl.
1st November to 29th November 2015	Billing memorandum: Correspondence and telecons with EY with regard to final report. Review report finding	21 600,00	3 024,00	24 624,00
	Phone calls and printing	189,47	26,53	216,00
	Total	21 789,47	3 050,53	24 840,00

Summary of disbursements (attached)

Disbursements	excluding	vat	Total
phone calls, printing	189,47	26,53	216,00
Total disbursements	189,47	26,53	216,00

Please Note: Payment is due on presentation of invoice.
Interest will be charged at 1.6% per month on overdue amounts

Direct Payments: CT&A Project Management (Pty) Ltd.
Nedbank: Branch: 100909 Acc: 1009 698125

COMMISSION OF INQUIRY INTO STATE CAPTURE

COMMISSION OF INQUIRY
INTO STATE CAPTURE

DD34-DCM-1670

SAA Corporate & PAX
Johannesburg
Company Code: 1010

Payment proposal list for proposal run 06.04.2016/CP300
List of paid amounts

06.04.2016 / 13:19:27
Users: SBB2540
Page: 1

Payment	House Bk	Acct ID	S	Name (in language of country)	Account holder	Amount paid (FC)	Crcy	Net amount in LC
Vendor CP300 Company EFT PAYMENTS DISBURSEMENTS Kempton Park 1627					Payment to The Project Office Platteklоof 7500		Bank Details nedbank Bank number: 190342 Account Number: 1009698125	
F110000005	SBJIA	MAIN	S	EFT Payment ZAR South Africa	The Project Office	335,293.73-	ZAR	335,293.73-

Doc's WITH HESTOR KLEINHANS

COMMISSION OF INQUIRY INTO STATE CAPTURE

COMMISSION OF INQUIRY
INTO STATE CAPTURE

Cty	Payment method	Crcy	Amount paid (FC)	Tot.ded.in FC	Crcy	Local curr.pmnt amt
ZA	E	ZAR	335,293.73-	0.00	ZAR	335,293.73-
* Country South Africa		ZAR	335,293.73-	0.00	ZAR	335,293.73-
**		ZAR	335,293.73-	0.00	ZAR	335,293.73-

DD34-DCM-1672

COMMISSION OF INQUIRY
INTO STATE CAPTURE

The PROJECT Office
Business Improvement Delivery

22 Melkhout Crescent
Plattekloof 3 | 7500
Telephone Office 0861 140 141
Fax 086 617 5117

CT&A Project Management (Pty) Ltd
PO Box 15813 | Panorama | 7506
Company Reg: 99/15942/07
Vat No: 4430183535

11th January 2016

Tax Invoice
Invoice Number: 1244

The Director
South African Airways SOC
Airways Park
Jones Road
Kempton Park
Johannesburg

Attention Ms. Yakhe Kwinana

Various matters - advice provided to the Board – December 2015

Date	SAA - Board consultation and assistance	Excl vat	Vat	Total incl.
1st dec to 23rd dec 2015	Billing memorandum: Providing advice to members of the Board in respect on numerous matters (49 hours)	88 200,00	12 348,00	100 548,00
	Phone calls, printing	541,58	75,82	617,40
	Total	88 741,58	12 423,82	101 165,40

Please Note: Payment is due on presentation of invoice.
Interest will be charged at 1.6% per month on overdue amounts

Direct Payments: CT&A Project Management (Pty) Ltd.
Nedbank: Branch: 100909 Acc: 1009 698125

COMMISSION OF INQUIRY INTO STATE CAPTURE

COMMISSION OF INQUIRY
INTO STATE CAPTURE

The PROJECT Office
Business Improvement Delivery

22 Melkhout Crescent
Platteklooof 3 | 7500
Telephone Office 0861 140 141
Fax 086 617 5117

CT&A Project Management (Pty) Ltd
PO Box 15813 | Panorama | 7506
Company Reg: 99/15942/07
Vat No: 4430183535

10th February 2016

Tax Invoice
Invoice Number: 1246

The Director
South African Airways SOC
Airways Park
Jones Road
Kempton Park
Johannesburg

Attention Ms. Yakhe Kwinana

Various matters - advice provided to the Board – January 2016

Date	SAA - Board consultation and assistance	Excl vat	Vat	Total incl.
4th January to dec to 5th February 2016	Billing memorandum Providing advice to members of the Board in respect on numerous matters (67.75 hours)	121 950,00	17 073,00	139 023,00
	Phone calls, printing	748,82	104,83	853,65
	Total	122 698,82	17 177,83	139 876,65

Please Note: Payment is due on presentation of invoice.
Interest will be charged at 1.6% per month on overdue amounts

Direct Payments: CT&A Project Management (Pty) Ltd.
Nedbank: Branch: 100909 Acc: 1009 698125

COMMISSION OF INQUIRY INTO STATE CAPTURE

COMMISSION OF INQUIRY
INTO STATE CAPTURE

The PROJECT Office
Business Improvement Delivery

22 Melkhout Crescent
Plattekloof 3 | 7500
Telephone Office 0861 140 141
Fax 086 617 5117

CT&A Project Management (Pty) Ltd
PO Box 15813 | Panorama | 7506
Company Reg: 99/15942/07
Vat No: 4430183535

7th March 2016

Tax Invoice
Invoice Number: 1250

The Director
South African Airways SOC
Airways Park
Jones Road
Kempton Park
Johannesburg

Attention Ms. Yakhe Kwinana

Various matters - advice provided to the Board – February 2016

Date	SAA - Board consultation and assistance	Excl vat	Vat	Total Incl.
5th Feb 2016 to 29 Feb 2016	Billing memorandum: Providing advice to members of the Board in respect on numerous matters (39,4hours)	71 100,00	9 954,00	81 054,00
	Phone calls, printing	5 893,06	705,78	6 598,84
	Total	76 993,06	10 659,78	87 652,84

Disbursements - attached

Disbursements	excluding	vat	Total
Saa air ticket to Board meeting 19th February 2016	5032,53	585,31	5617,84
Airport parking	236,84	33,16	270,00
phone calls, printing	623,68	87,32	711,00
Total disbursements	5893,06	705,78	6598,84

Please Note: Payment is due on presentation of invoice.
Interest will be charged at 1.6% per month on overdue amounts

Direct Payments: CT&A Project Management (Pty) Ltd.
Nedbank: Branch: 100909 Acc: 1009 698125

COMMISSION OF INQUIRY INTO STATE CAPTURE

SOUTH AFRICAN AIRWAYS
A STAR ALLIANCE MEMBER

South African Airways (SOC) LTD
Company Registration Number : 1997/022444/07
Vat Registration Number : 4260 170 990

Private Bag x 13
JHB International Airport
1627

Inv Number: 832124848925

COMPUTER GENERATED TAX INVOICE

Ticket Issue Date: 2016/02/17

LINNELL/NICHOLASMR
CTA PROJECT MANAGEMENT
22 MELKHOUT CRESCENT
PLATTEKLOOF
CAPE TOWN
CAPE
7500

Vat Registration No	: 4430183535
Air Ticket Number	: 832124848925 -CONJ
Original Air Ticket Number	: N/A
Order No	:
Cost Centre Number	:
Card Number	:

TICKET INFORMATION

Flight Information

FLIGHT	Leaving From	To	Departure Date
SA326	CPT	JNB	2016/02/18
SA359	JNB	CPT	2016/02/19

Passenger Details

PASSENGER NAME	EMAIL ADDRESS
LINNELL/NICHOLASMR	NICKL@THEPROJECTOFFICE.COM

DESCRIPTION

Airline Tickets - Reference Number : ZRHRV3

FARE BREAKDOWN

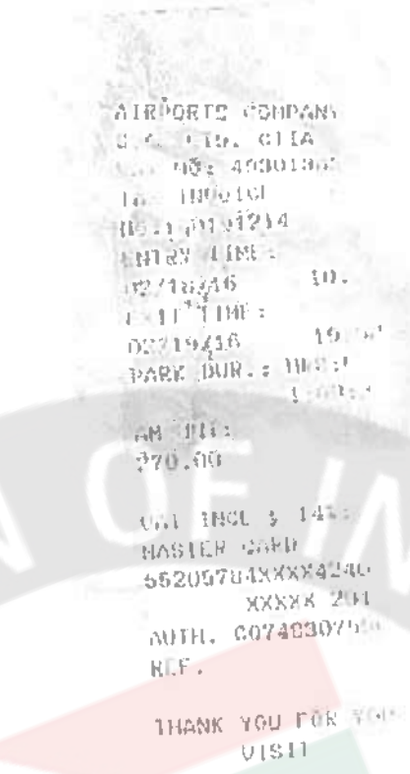
	Amount (Currency: ZAR)
	3,110.00
VAT @ 14%	435.40
ZA - Passenger Service Charge Inclusive of 14% VAT	254.00
YR - Fuel Levy charge inclusive of 14% VAT - only in respect of Domestic Travel	1,733.00
EV - Civil Aviation Aircraft Passenger Safety Charge VAT 14% not applicable	37.44
DV Fee - Voyager change/expediting fees inclusive of 14% VAT (International reservations - VAT not applicable)	.00
DU Fee - Change fees on Domestic Reservations Inclusive of 14% VAT (International Reservations VAT not Applicable)	.00
OC Fee - Airport /City Office Service Charge inclusive of 14% VAT	.00
UM Fee - Passenger Security Charge - Inclusive of 14% VAT	48.00
OE - Fee - Carbon Emission Contribution VAT 14% not applicable	.00
YQ - Fuel Levy charge inclusive of 14% VAT - only in respect of Domestic Travel on SA EXPRESS or SA AIRLINK	.00
OTHER - All other Passenger Service Charges VAT 14% not applicable	.00
TOTAL INCL VAT	5,617.84
VAT CLAIMABLE	665.31

Note
A Tax Invoice where your ticket has been changed/upgraded will only reflect the additional amount paid/or zero amount if no amount
Only the first four legs of the itinerary will be displayed
Tax invoice currency as per original purchase

Thank you for flying South African Airways

CONJ-Multiple Tickets were issued for this itinerary. Taxes are collected on the first ticket only.

COMMISSION OF INQUIRY INTO STATE CAPTURE



AIRPORTS COMPANY
[illegible] CIA
[illegible]
[illegible]
ENTRY LINE :
[illegible] ID.
EXIT TIME :
[illegible]
PARK DUR. : [illegible]

AMOUNT:
270.00

VAT INCL @ 14%
MASTER CARD
5520978[illegible]
XXXXXX 201
AUTH. C0748307[illegible]
REF.

THANK YOU FOR YOUR
VISIT

COMMISSION OF INQUIRY INTO STATE CAPTURE

COMMISSION OF INQUIRY
INTO STATE CAPTURE

DD34-DCM-1682

SAA Corporate & PAX
Johannesburg
Company Code: 1010

Payment proposal list for proposal run 23.05.2016/CP300
List of paid amounts

23.05.2016 / 14:19:21
Users: SBH254Q
Page: 1

House Acct F Name / CoCd DocumentNo Assignment	Account holder / Document Date PayT Days	Due Date / FC gross amount	Crc / Tot.deductions in FC	Amount paid / Net amount in FC	Net amount in LC / Crcy
Vendor CP300	Payment to	Bank Details			
Company EFT PAYMENTS DISBURSEMENTS Kempton Park 1627	The Project Office Cape Town 8000	nedbank Bank number: 190342 Account Number: 1009698125			
SBJIA MAIN E EFT Payment ZAR South Afr...	The Project Office	23.05.2016	ZAR	138,992.00-	138,992.00-
1010 1900645607 1252	19.04.2016 ZB13 30	138,992.00-		0.00	138,992.00- ZAR
* Tot		138,992.00-		0.00	138,992.00- 138,992.00- ZAR

SAA CREDITORS
HEAD OFFICE
2016 -05- 24
PAID:

COMMISSION OF INQUIRY INTO STATE CAPTURE

COMMISSION OF INQUIRY
INTO STATE CAPTURE

SOUTH AFRICAN AIRWAYS

EXPENSE AUTHORISATION

Vendor acc no CP300

Date: 21-Apr-16

Contract Reference:

Payment to:

THE PROJECT OFFICE
NEDBANK
ACCOUNT NUMBER: 1009 696 125
BRANCH CODE 100909

1H - Vat claimable
2H - Vat not claimable / Zero Rated

SAA Standard Payment Terms (30 DAYS FROM DATE OF STATEMENT)

Description of goods/service : Forensic Investigation

Cost Element	Cost Element Description	Cost Ctr	Invoice No	Exception Code - Purchase Order Compliance	Vat Code	Amount
916510		7474	1252		1H	138 992.00
						138 992.00

ZAR

is due for payment

Authorisation Matrix

	Departmental Finance Manager (Budget Checked)	Manager/ Specialist Level 3	Manager/ Specialist Level 2 Lower	Head of Department Level 2 Upper	EXCO Member Level 1	CFO	CEO	SAA Board of Directors
Up to R50K	X	X						
Up to R500K	X		X					
Up to R 5M	X			X				
Up to R 10M	X				X			
Up to R 50M	X					X		
Up to R 100M	X						X	
Above R100M	X							X

It is important to note that every financial expenditure approval is subject to the principle of two signatures, one being that of the recommender and the other signature being that of the delegated authorised approver.

All expenses greater than R500k must be submitted to the Bid Adjudication Council to ensure that the appropriate procurement policy & procedures have been followed.

Please confirm the following:

1. Procurement process has been complied with	
2. Compliance with DOA	
3. Budget facility is available for the cost element	NO BUDGET - NOT ACCRUED FOR
4. Checked VAT code	
5. Checked cost centre/cost element	

Prepared by:

Print Name Fundiswa Goduka

Tel no 8329

Room no 6th floor

Recommended by:

Print Name Thumeka Nhantsi (ACFO)

Approved by:

Print Name Musa Zwane (ACEO)

Recommended & Approved by:

Finance Manager / Controller 24/5/16

Print Name

Creditors - Note that no Exp. Authorisation document must be processed in SAP without a valid Exception Code

Checked in system and not previously paid: BU number: 1900645607/1000

1900010577/1000

23/5/16

COMMISSION OF INQUIRY
INTO STATE CAPTURE

The PROJECT Office
Business Improvement Delivery

22 Melkhout Crescent
Plattekloof 3 | 7500
Telephone Office 0861 140 141
Fax 086 617 5117

CT&A Project Management (Pty) Ltd
PO Box 15813 | Panorama | 7506
Company Reg: 99/15942/07
Vat No: 4430183535

19th April 2016

Tax Invoice
Invoice Number: 1252

The Director
South African Airways SOC
Airways Park
Jones Road
Kempton Park
Johannesburg

Attention Ms. Yakhe Kwinana

Various matters - advice provided to the Board – March 2016

Date	Matter	Excl vat	Vat	Total incl
1st March 2016 to 15th April 2016 6 weeks	To our fee in respect of advice provided to the Board on various matters (narration included in separate billing memorandum)	120 600,00	16 884,00	137 484,00
	Disbursements	1 322,81	185,19	1 508,00
	Total	121 922,81	17 069,19	138 992,00

Disbursements - attached

Disbursements	excluding	vat	Tota
Airport parking	264,91	37,09	302,00
phone calls, printing	1057,89	148,11	1206,00
Total disbursements	1322,81	185,19	1508,00

Please Note: Payment is due on presentation of invoice.
Interest will be charged at 1.6% per month on overdue amounts

Direct Payments: CT&A Project Management (Pty) Ltd.
Nedbank: Branch: 100909 Acc: 1009 698125

COMMISSION OF INQUIRY INTO STATE CAPTURE

AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930138393
TAX INVOICE C3
NO:190135434
ENTRY TIME:
04/12/16 05:06
EXIT TIME:
04/12/16 20:28
PARK-DUR.: HRS:MIN

0:15:22:

AMOUNT:
176.00

VAT INCL @ 14%:
MASTER CARD
55205784XXXX4240
XXXXX 201
AUTH. C0748008683
REF. 87

THANK YOU FOR YOUR
VISIT

AIRPORTS COMPANY
S.A. LTD. CTIA
VAT NO: 4930138393
TAX INVOICE C3
NO:190133730
ENTRY TIME:
04/08/16 04:57
EXIT TIME:
04/08/16 15:12
PARK-DUR.: HRS:MIN

0:10:15:

AMOUNT:
126.00

VAT INCL @ 14%:
MASTER CARD
55205784XXXX4240
XXXXX 201
AUTH. C0748005332
REF. 36

THANK YOU FOR YOUR
VISIT

COMMISSION OF INQUIRY INTO STATE CAPTURE

SOUTH AFRICAN AIRWAYS

EXPENSE AUTHORISATION

Vendor acc no

Date: 25-Aug-16

Contract Reference:

Payment to: THE PROJECT OFFICE

1H - Vat claimable
2H - Vat not claimable / Zero Rated

SAA Standard Payment Terms (30 DAYS FROM DATE OF STATEMENT)

Description of goods/service : ADVICE PROVIDED TO BOARD

Cost Element	Cost Element Description	Cost Ctr	Invoice No	Exception Code -Purchase Order Compliance	Vat Code	Amount
916510		7474	1253			132,480.00
						R 132,480.00

SAA CREDITORS
HEAD OFFICE
2016 -09- 02
PAID
PAID:.....

Foreign currency
ZAR

Certified that the amount of: Two hundred and thirty-two rand and fifty one cents only

is due for payment

Authorisation Matrix

	Departmental Finance Manager (Budget Checked)	Manager/ Specialist Level 3	Manager/ Specialist Level 2 Lower	Head of Department Level 2 Upper	EXCO Member Level 1	CFO	CEO	SAA Board of Directors
Up to R50K	X	X						
Up to R500K	X		X					
Up to R 5M	X			X				
Up to R 10M	X				X			
Up to R 50M	X					X		
Up to R 100M	X						X	
Above R100M	X							X

It is important to note that every financial expenditure approval is subject to the principle of two signatures, one being that of the recommender and the other signature being that of the delegated authorised approver.

All expenses greater than R500k must be submitted to the Bid Adjudication Council to ensure that the appropriate procurement policy & procedures have been followed.

Please confirm the following:

1. Procurement process has been complied with	
2. Compliance with DOA	
3. Budget facility is available for the cost element	✓
4. Checked VAT code	
5. Checked cost centre/cost element	

Prepared by:

Print Name Carol Chinjeke

Tel no 1908

Room no 6th floor

Recommended by:

Ruth Kibuuka CoSec

Approved by: 26/8/16

Phumeza Nhantsi ICFO

Recommended & Approved by: 31/8/16

Finance Manager / Controller

Print Name

Creditors - Note that no Exp. Authorisation document must be processed in SAP without a valid Exception Code

Checked in system and not previously paid: Wendy

BU number: 1900653430
1900010993

The PROJECT Office
Business Improvement Delivery

22 Melkhout Crescent
Platteklooof 3 | 7500
Telephone Office 0861 140 141
Fax 086 617 5117

CT&A Project Management (Pty) Ltd
PO Box 15813 | Panorama | 7506
Company Reg: 99/15942/07
Vat No: 4430183535

17th May 2016

Tax Invoice
Invoice Number: 1253

The Director
South African Airways SOC
Airways Park
Jones Road
Kempton Park
Johannesburg

Attention Ms. Yakhe Kwinana

Various matters - advice provided to the Board – April/May 2016

Date	Matter	Excl vat	Vat	Total incl.
16th April 2016 to 17th May	To our fee in respect of advice provided to the Board on various matters (narration included in separate billing memorandum) (64 hours)	115 200,00	16 128,00	131 328,00
	Disbursements	1 010,53	141,47	1 152,00
	Total	116 210,53	16 269,47	132 480,00

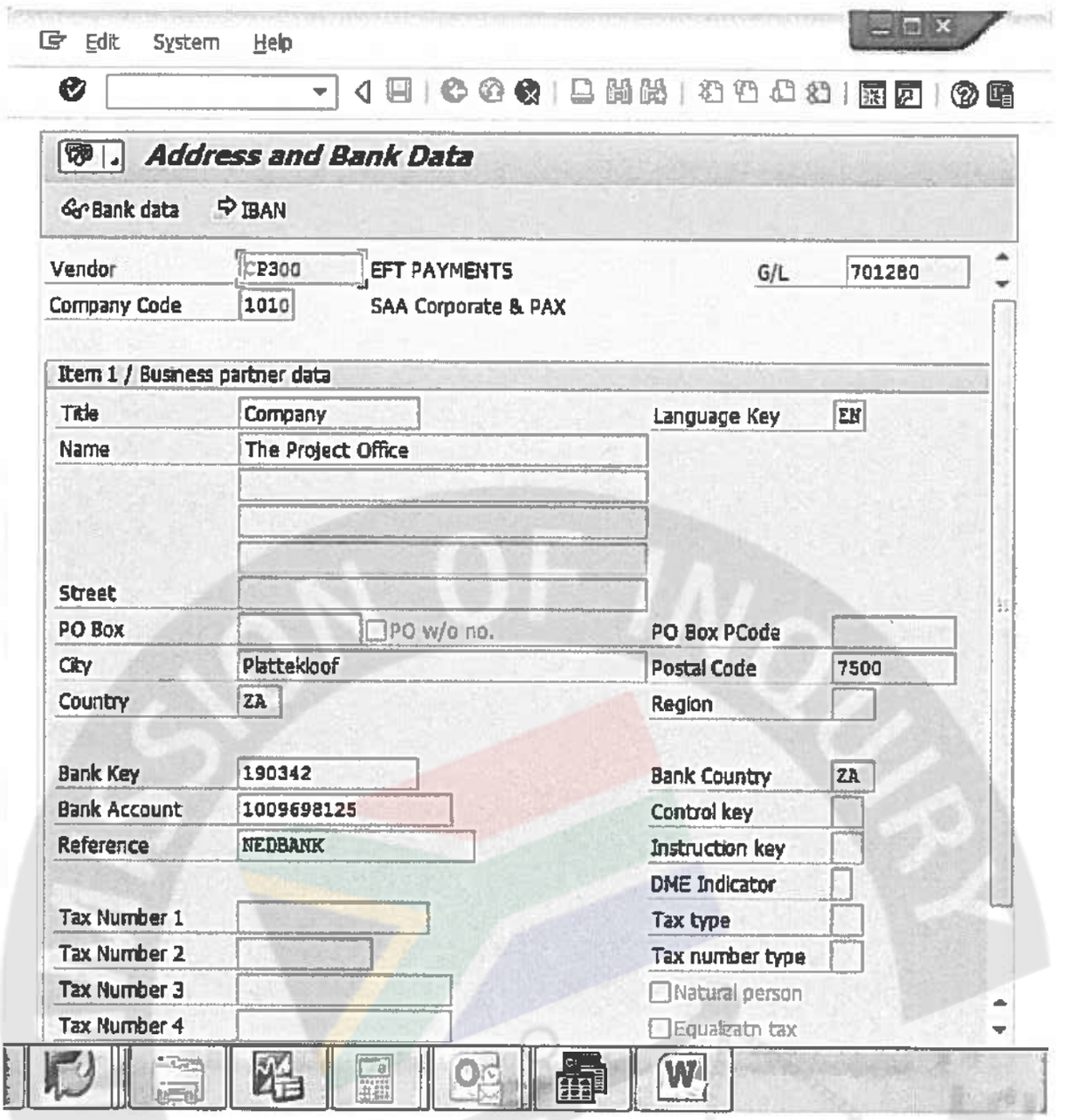
Disbursements - attached

Disbursements	excluding	vat	Total
phone calls, printing	1010,53	141,47	1152,00
Total disbursements	1010,53	141,47	1152,00

Please Note: Payment is due on presentation of invoice.
Interest will be charged at 1.6% per month on overdue amounts

Direct Payments: CT&A Project Management (Pty) Ltd.
Nedbank: Branch: 100909 Acc: 1009 698125

COMMISSION OF INQUIRY INTO STATE CAPTURE



Edit System Help

Address and Bank Data

Bank data | IBAN

Vendor	P300 EFT PAYMENTS	G/L	701280
Company Code	1010 SAA Corporate & PAX		

Item 1 / Business partner data

Title	Company	Language Key	EN
Name	The Project Office		
Street			
PO Box	PO w/o no.	PO Box PCode	
City	Plattekloof	Postal Code	7500
Country	ZA	Region	
Bank Key	190342	Bank Country	ZA
Bank Account	1009698125	Control key	
Reference	NEDBANK	Instruction key	
		DME Indicator	
Tax Number 1		Tax type	
Tax Number 2		Tax number type	
Tax Number 3		Natural person	
Tax Number 4		Equalizatn tax	

INTO STATE CAPTURE

SOUTH AFRICAN AIRWAYS

EXPENSE AUTHORISATION

Vendor acc no

Date: 25-Aug-16

Contract Reference:

Payment to: THE PROJECT OFFICE

1H - Vat claimable
2H - Vat not claimable / Zero Rated

SAA Standard Payment Terms (30 DAYS FROM DATE OF STATEMENT)

Description of goods/service : ADVICE PROVIDED TO BOARD

Cost Element	Cost Element Description	Cost Ctr	Invoice No	Exception Code -Purchase Order Compliance	Vat Code	Amount
916510		7474	12S8			203,032.50
						R 203,032.50

foreign currency: ZAR

Certified that the amount of: Two hundred and ninety four rand and fifty one cents only.

is due for payment.

Authorisation Matrix

	Departmental Finance Manager (Budget Checked)	Manager/ Specialist Level 3	Manager/ Specialist Level 2 Lower	Head of Department Level 2 Upper	EXCO Member Level 1	CFO	CEO	SAA Board of Directors
Up to R50K	X	X						
Up to R500K	X		X					
Up to R 5M	X			X				
Up to R 10M	X				X			
Up to R 50M	X					X		
Up to R 100M	X						X	
Above R100M	X							X

It is important to note that every financial expenditure approval is subject to the principle of two signatures, one being that of the recommender and the other signature being that of the delegated authorised approver.

All expenses greater than R500k must be submitted to the Bid Adjudication Council to ensure that the appropriate procurement policy & procedures have been followed.

Please confirm the following:

1. Procurement process has been complied with	
2. Compliance with DOA	
3. Budget facility is available for the cost element	
4. Checked VAT code	
5. Checked cost centre/cost element	

Prepared by:

Print Name: Carol Chinjeke

Tel no: 1908

Room no: 6th floor

Recommended by:

Ruth Kibuuka — CoSec

Approved by:

Phumeza Nhantsi — ICFO

Recommended & Approved by:

Finance Manager / Controller

Print Name

Creditors - Note that no Exp. Authorisation document must be processed in SAP without a valid Exception Code

Checked in system and not previously paid: **BU number:**



22 Melkhout Crescent
Plattekloof 3 | 7500
Telephone Office 0861 140 141
Fax 086 617 5117

CT&A Project Management (Pty) Ltd
PO Box 15813 | Panorama | 7506
Company Reg: 99/15942/07
Vat No: 4430183535

31st July 2016

Tax Invoice
Invoice Number: 1258

The Director
South African Airways SOC
Airways Park
Jones Road
Kempton Park
Johannesburg

Attention Ms. Dudu Myeni

Various matters - advice provided to the Board – June/July 2016

Date	5AA - Board consultation and assistance	Excl vat	Vat	Total Incl.
19 June to 31st August 2016	Billing memorandum: Providing advice to members of the Board in respect on numerous matters (80,25hours)	176 550,00	24 717,00	201 267,00
	Phone calls and printing	1 548,68	216,82	1 765,50
	Total	178 098,68	24 933,82	203 032,50

Please Note: Payment is due on presentation of invoice.
Interest will be charged at 1.6% per month on overdue amounts

Direct Payments: CT&A Project Management (Pty) Ltd.
Nedbank: Branch: 100909 Acc: 1009 698125

COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-1693

The PROJECT Office
Business Improvement Delivery

14th August 2016

The Chairperson
South African Airways SOC
Airways Park
Kempton Park

By email

Dear Ms Myeni

Non-payment of invoices

The Acting CFO has advised me by email that invoices raised and unpaid are in excess of the amounts approved by the Board and could not be paid without further Board authorisation.

The authorisation in question dated 29th February 2016 is attached. This authorisation had three components.

- ✓ There is the ratification of an earlier appointment which had then been completed and there are no further expenses (4a)i).
- ✓ There is the ratification of two earlier appointments for which some expenses have been incurred but there is a further R20 000 and R100 000 expenses to be claimed (4a)ii) and (4a)iii).
- ✓ The appointment of a new appointment in respect of which no expenses have been incurred and a budget of R360 000 is approved (4a)iv).

Para 4)b) requires that the Acting CEO provides a budget for the expenses to be incurred.

Therefore a total amount of R480 000 is to be budgeted from 1st March 2016.

Against this the following invoices were raised after the 29th February 2016

Invoice 1250	dated 7th March	period from 1st February	71 100,00
Invoice 1252	dated 19/4/2016	period from 1st March	120 600,00
		paid	191 700,00
Invoice 1253	dated 17/5/2016	period from 16th April	115 200,00
Invoice 1255	dated 20/6/2016	period from 18th May	171 250,00
Invoice 1258	dated 31/7/2016	period from 19th June	176 550,00
		fees raised after 1st March	654 700,00
		approved	-480 000,00
		shortfall.	174 700,00

All amounts exclude disbursements and vat.

Invoice 1250 was in respect of services provided during February and therefore ought not to be applicable to the authorisation under review. However in order to avoid debateable issues it is included for the purposes of this representation.

The above reconciliation makes it clear that there is sufficient authorisation for the payment of invoices 1253 and 1255 and only the last invoice being 1258 exceeds that amount authorised.

The Acting CFO has provided a "reconciliation" that includes 6 invoices that are in respect of services carried out prior to the resolution of the 29th February 2016. These are completely irrelevant to the amount approved by the board.

The amounts that are unpaid have been unpaid for some time – 3 months and only now in August is the matter of approval now raised.

To the extent an additional Board authorisation is required, it relates only to invoice 1258 and further services provided in August and further work that the Board may require.

May I request that the Acting CFO be required to provide an explanation for her interpretation of the resolution of the 29th February 2016 with the reconciliation provided in her email attached and her refusal to effect payment of the invoices approved.

Please would you also request the Company Secretary process an appropriate proposal for the board to consider the further approval of funds in respect of current advisory services rendered to the board?

Kind regards

Nick Linnell
Director

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
Email: companysecretary@flysaa.com

To:	SAA BOARD OF DIRECTORS
Date:	29 FEBRUARY 2016

SAA BOARD OF DIRECTORS' WRITTEN RESOLUTION NO 2016/B04: RATIFICATION OF THE APPOINTMENT OF THE EXTERNAL ADVISOR TO THE BOARD

1. PURPOSE

The purpose of the submission is to request the Board to:

a) Ratify the appointments of Mr Nick Linnell of The Project Office to act in the following capacities:
   i). Coordinator of the ENS Kalawe investigation reporting to Mr Tony Dixon with effect from the 30th October 2014.The project has been completed. There are no further expenses.
   ii). Coordinator of the EY procurement investigation reporting to Ms. Yakhe Kwinana with effect from the 28th July 2015. The project is nearing completion. The total cost is estimated at R120 000, of which R100 000 has already been expended.
   iii). As Board advisor on *ad hoc* matters requested by the Board from time to time with effect from 1st April 2015. The agreed rate is R1 800 per hour. Current activities are expected to amount to a further 50 hours or R100 000.
   iv). To co-ordinate the forensic investigation into financial losses at SAA to be conducted by ENS. The agreed rate is R1 800 per hour. The estimated number of hours required is 200. The budget would therefore be R360 000.

b) Instruct the Acting CEO to provide the budget for the work to be performed by Mr Nick Linnell.

2. BACKGROUND AND MOTIVATION

On the 30th October 2014, the Board resolved inter alia to appoint a subcommittee of the Board (Tony Dixon and Dr John Tambi) to investigate certain allegations against the then CEO of SAA.

When the Board Committee was appointed, the Board then appointed and ratified the appointment of Edward Nathan Sonnenbergs (ENS) attorneys who were to conduct the investigation.

Directors

DC Myeni* (Chairperson), Y Kwinana*, JE Tambi*(Sierra Leonean)

*Non-Executive Director

Company Secretary – Ruth Kibuuka

South African Airways SOC Ltd Reg No 1997/022444/30

A STAR ALLIANCE MEMBER

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
Email: companysecretary@flysaa.com

29 February 2016

Dear Director

SAA BOARD OF DIRECTORS' WRITTEN RESOLUTION NO 2016/B04: RATIFICATION OF THE APPOINTMENT OF THE EXTERNAL ADVISOR TO THE BOARD

We refer to the above matter and attach hereto the Written Resolution No. 2016/B04.

Kindly consider, sign and return to us the Written Resolution by 12h00, Thursday, 03 March 2016 via email.

Kind regards

Ruth Kibuuka
Company Secretary

COMMISSION OF INQUIRY INTO STATE CAPTURE

Directors

DC Myeni* (Chairperson), Y Kwinana*, JE Tambi*(Sierra Leonean)

*Non-Executive Director

Company Secretary – Ruth Kibuuka

South African Airways SOC Ltd Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER

At the same time the Board approved the appointment of an external consultant, to assist the subcommittee and act as a go-between or coordinator for the investigation and provide the subcommittee with advice with regard to the process and progress of the investigation, as it was time consuming for the NEDs' who are working during the week. This is in line with the statutes (MOI or Companies Act)

At the conclusion of that matter in April 2015, the Board agreed to instruct Mr Linnell, of the Project Office, on various interventions providing members of the Board with ad-hoc advice on matters being addressed by the Board from time to time. This was suitable to the Board as Mr Linnell had over the preceding five months gained valuable insight to the company that was of assistance to the board in follow up matters thereafter, such as investigations that were spill-overs from the main one, and finally closing the investigation.

On or about 08th July 2015, the Board authorised and mandated the Chief Audit Executive to appoint a forensic audit firm in accordance with SAA SCM policy to carry out the investigation into procurement practices at SAA and its subsidiaries. The Chief Audit Executive subsequently appointed Ernst and Young (EY) to conduct the investigation. Given the Board's experience of Mr. Linnell's assistance during the previous investigation and his insight into the business and particularly its procurement policies, the Board agreed to appoint Mr Linnell to fulfil an identical role with regard to the EY investigation. The necessity for the appointment of an independent person to coordinate the investigation and advise the Board on pertinent issues was recorded in the investigation Scope and Objectives at that time.

Notwithstanding that both appointments (The Project Office) were made at their respective times, their formal inclusion in the resolutions of the 30th October 2014 (ENS) and 08th July 2015 were erroneously omitted.

The Company Secretary has now drawn this omission to the attention to the Board's attention, and as the Board has a duty to formally ratify those *de facto* appointments, and this formalises such.

3. CONSIDERATIONS IN TERMS OF THE PUBLIC FINANCE MANAGEMENT ACT (PFMA)

Both the ENS and the EY investigations were unusual in that the Board is ordinarily advised on external investigations by the Executive. In each of these investigations the executive and senior management was potentially conflicted as the investigations directly targeted activities under the Executives' own roles and responsibilities.

These investigations were wide ranging in scope and context and it would be impractical for members of the Board to interact with the investigators with the frequency and diversity of issues required in these instances. The Board required an intermediary role that fulfilled the advisor function normally provided by management.

The Board was conscious of the importance, confidentiality and urgency of the Kalawe investigation.

It was also conscious of the fact that normal procurement is adjudicated through the executive with the CEO having a critical role in terms of the SCM policy.

The Board also noted that it would be difficult to set an objective standard that would be advertised for this role. Subjective considerations (personal skills/ability to work closely with the Board; trust; insight etc.) were more qualitative than quantitative (which is more suited to a procurement process). It was also necessary that the intermediary gained the confidence and trust of the investigators and

the management and staff and was seen to be independent and credible. The cost factor was also a major consideration. The Board therefore considered it not appropriate that this appointment would follow a bid process.

The Board considered Mr Linnell's skills (technical and interpersonal) as they pertained to this investigation and the board considered that he would ideally fulfil this role.

During this initial investigation Mr Linnell gained the trust and respect of the Board with regard to matters seized by the Board and upon which members required external advice as contemplated by the Companies Act.

The role of the Board over the past 15 months has been unusual and taxing requiring a far greater degree of involvement in strategy issues. The Board therefore required that given the individual skills necessary and relational and confidential advice required, the Board required a continuation of Mr Linnell's role on rolling ad hoc matters. The Board acknowledged that this was necessary at this time.

The Company Secretary is requested to note these reasons in compliance with the PFMA.

4. RECOMMENDATION

It is accordingly recommended that the SAA Board:

a) Ratifies the appointments of Mr Nick Linnell of The Project Office to act in the following capacities:

i) Coordinator of the ENS Kalawe investigation reporting to Mr Tony Dixon with effect from the 30th October 2014. The project has been completed. There are no further expenses. – invoice nr's?

ii). Coordinator of the EY procurement investigation reporting to Ms. Yakhe Kwinana with effect from the 28th July 2015. The project is nearing completion. The total cost is estimated at R120 000, of which R100 000 has already been expended. – invoice nr?

iii). As Board advisor on *ad hoc* matters requested by the Board from time to time with effect from 1st April 2015. The agreed rate is R1 800 per hour. Current activities are expected to amount to a further 50 hours or R100 000.

iv). To co-ordinate the forensic investigation into financial losses at SAA to be conducted by ENS. The agreed rate is R1 800 per hour. The estimated number of hours required is 200. The budget would therefore be R360 000. wef?

Board submission 29/2/16

b) Instructs the Acting CEO to provide the budget for the work to be performed by Mr Nick Linnell.

NAME OF DIRECTOR	*IN FAVOUR*	*AGAINST*	*ABSTAIN*

SIGNED: _____ DATE: _____

Friday, October 30, 2020 at 05:05:31 South Africa Standard Time

Subject: FW: CV of Ms Duduzile Myeni
Date: Monday, 03 December 2012 at 13:27:00 South Africa Standard Time
From: "Orcilla Ruthnam"
To: "Gugulethu Tlali"
Attachments: image001.gif, image002.gif, image003.gif, image004.jpg, CV of Duduzile Myeni.pdf

From: Msekeli Willie
Sent: Friday, November 30, 2012 3:39 PM
To: Matsietsi Mokholo
Cc: Orcilla Ruthnam
Subject: CV of Ms Duduzile Myeni

Hi Sisi Matsie

Please find attached CV of Ms Myeni

Mr Msekeli Willie
Legal & Governance
DEPARTMENT OF PUBLIC ENTERPRISES
+27 (0)12 431 1176 | +27 (0)012 342 4146 | msekeli.willie@dpe.gov.za
1090 Arcadia Street | InfoTech Building | Hatfield | Pretoria | Switchboard: +27 12 431 1000

public enterprises
Department:
Public Enterprises
REPUBLIC OF SOUTH AFRICA

Click on the following link to view DPE website & email disclaimer http://www.dpe.gov.za/home.asp?id=10
Click on the following link to view directions to DPE http://www.dpe.gov.za/home.asp?id=1053

Friday, October 30, 2020 at 05:07:32 South Africa Standard Time

Subject: RE: CV of Ms D Myeni
Date: Wednesday, 05 December 2012 at 08:35:00 South Africa Standard Time
From: "Orcilla Ruthnam"
To: 'Sandile Dlamini'
CC: "Matsietsi Mokholo"

Unconventional, informal method. I will have to copy and format onto a Word doc.

-----Original Message-----
From: Sandile Dlamini [mailto:SandileDlamini@flysaa.com]
Sent: Wednesday, December 05, 2012 8:28 AM
To: Orcilla Ruthnam
Cc: Matsietsi Mokholo
Subject: RE: CV of Ms D Myeni

Hi Orcilla

There is no attachment. Please go down the email you will find the CV.

Regards

Sandile Dlamini | Company Secretary | Legal

Mobile: +2783-256-3634 | Phone: +2711-978-6553 | E-Mail: SandileDlamini@flysaa.com Executive Office, 6th Floor, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

-----Original Message-----
From: Orcilla Ruthnam [mailto:Orcilla.Ruthnam@dpe.gov.za]
Sent: 05 December 2012 07:56 AM
To: Sandile Dlamini
Cc: Matsietsi Mokholo
Subject: RE: CV of Ms D Myeni

Morning Sandile
Please resend - there was no attachment

Regards
Orcilla

-----Original Message-----
From: Sandile Dlamini [mailto:SandileDlamini@flysaa.com]
Sent: Wednesday, December 05, 2012 7:48 AM
To: Orcilla Ruthnam
Cc: Matsietsi Mokholo
Subject: CV of Ms D Myeni

Hi Orcilla

I forward herewith the CV of Ms D Myeni as requested.

Regards

Sandile Dlamini | Company Secretary | Legal

Mobile: +2783-256-3634 | Phone: +2711-978-6553 | E-Mail: SandileDlamini@flysaa.com Executive Office, 6th Floor, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

-----Original Message-----
From: duduzile C Myeni [mailto:myenid@vodamail.co.za]
Sent: 04 December 2012 05:22 PM
To: Sandile Dlamini
Subject: CV - Detailed- let me know if u need abridged.

CURRICULUM VITAE

MS DUDUZILE CYNTHIA MYENI- Nee MEMELA

PERSONAL DETAILS

Postal address: PO Box 30527, Richards Bay, 3900
Residential address: 102 Kolstertkring, Meerensee.3901
Telephone numbers: 035- 7533174
Facsimile: 035- 7533171
082- 875 6002
myenid@vodamail.co.za

EDUCATIONAL BACKGROUND

Primary Teachers Certificate 1980 -1981 Madadeni College
Secondary Teachers' Diploma (STD) 1990 -1992 Umlazi College

Bachelor of Administration -one semester outstanding- (due to death in the family)- University of Zululand.

Adult Education 1998 University of Natal

Business Skills for South Africa - BSSA- 1999 Business Skills For South Africa

Business Management (7 modules) 1999 University of Zululand
Community Development Certificate
1999 World Education
Basic Entrepreneurial Education Programme

1999 Ntsika Ent. Dev Agency
Micro Business Training Certificate

2000 World Education
Corporate Governance

2003 Institute of Directors (IOD)

Leadership Development
(Steven Covey) 7HB 2002 Covey Institute (Utah) USA

Corporate Governance 2004 Gordon Institute of Business Science

Corporate Governance
2005 Gordon Inst of Business Science

Corporate Governance 2006 Gordon Institute of Business Science

Corporate Governance 2007 IOD

Wits Business School - Finance Certificat- 2009 Wits Certificate
Corporate Governance

2008 IOD (for ABSA)
Corporate Governance

2009 IOD (TIKZN)
Corporate Governance

2010 IOD (Mhlathuze Water)

EMPLOYMENT AND EXPERIENCE

1981 - 1996 Educator and 1994 1995 Deputy Principal at Nsiwa Primary School
1996 - 1998 Regional Manager SMILE KZN- Managing the Leadership and Management Dev in KZN.

1999 - CEO & Founder of Skills Dynamics Training & Development Organisation

2002- 2005. Consulting for BHP Billiton and Richards Bay Minerals

Transactional Advisor for BEE, in line with the new Mining Charter- for Richards Bay Minerals and successfully met their first compliance for mining licence - 2002 - 2004.

2005 - Co established the Institute of Local Government and Traditional Leadership, University of Zululand, in partnership with the University of University and Florida Agricultural and Mechanical University (USA)

LEADERSHIP AND COMMUNITY INVOLVEMENT

- 2012 President - African Water Association - 43 Countries, 150 Water Companies

- 2010 Vice President - African Water Association (Current)
- 2010 Chairperson - South African Association of Water Utilities
- 2009 Director - South African Airways Board
- 2006 Chairperson - Mhlathuze Water Board - (current)
- 2006 Director - Trade and Investment KZN (term ended)
- 2002 Provincial Board Member - Absa Bank (Term Ended)
- 2002 Vice President - Zululand Chamber of Business (ZCB). Term ended

- 2001 Board Member of Business Against Crime (BAC) term ended
- 2000 Member of National Staff Development Council - USA (NSDC)

HONORORIUM

§ Honorary member of the Warrington Chamber of Commerce and Industry, UK 2005

§ Honorary Member of Lattice (USA) 2007
§ Since 2005 to date: Member of Institute of Directors (IoD) - SA

SEMINARS, CONFERENCES AND PAPERS PRESENTED

§ August 2004 -Presented a Paper in Maine, USA on “Change and Hope for Black South African Women in Business”

§ 2003 Invited by Stephen Covey - Covey Conference as an Honorary Guest for his Leadership Conferences, Utah, USA. Got to use his material on Leadership and Management Development.

§ March 2001 - Presented a Paper in Kwa-Zulu Natal, Department of Education “Women in Management”

§ 2001 - Presented a paper at Wesley College, Boston Massachusetts, USA - “My journey, “a case study on Skills Dynamics as a CEO”

PROFESSIONAL AND INTERNATIONAL EXPERIENCE

§ Professional Development -Schools Programme - Michigan State University (USA)

§ International Best Business Practices (UK- I month) in September 2001

§ Principal of the Day - Chicago City School Initiative (USA)
October 2005 - A culmination of a South African Schools Leadership Programme in Partnership with Chicago Teachers' Dev Programme while CEO of Skills Dynamics.

AWARDS AND OTHER ACHIEVEMENTS

§ 1999 Business Personality of the Year Award - Zululand Chamber of Business Presidential Award

§ 2001 Finalist in the SABC 3 / Shoprite Checkers Woman of the Year 2000 Award - Education Category

§ 2001 Woman Entrepreneur- nominated by Investec Private Bank and Sunday Tribune

§ 2001 Business Excellence Award - Business Partners / Mercury Network

§ 2001 Successfully Established Youth Enterprise Development Initiative

§ 2003 Established 61 Cooperatives as part of Poverty alleviation &J ob Creation Initiative in KZN.

§ 2007 Awarded as South African Woman Philanthropist
§ 2009 South African Chamber of Commerce (SACCI) Business Woman of the Year

• 2011 Addressed Chamber of Commerce and Industry in Switzerland

• 2011. Addressed Chamber of Commerce and Industry in Germany

REFERENCES

Sent via my BlackBerry from Vodacom - let your email find you!

CURRICULUM VITAE

DUDUZILE CYNTHIA MYENI

PERSONAL DETAILS

Postal address:	PO Box 30527,Richards Bay, 3900
Residential address:	102 Kolstertkring, Meerensee.3901
Telephone numbers:	035- 7533 174
Facsimile:	035- 7533 171
	082- 875 6002
	dudumyeni@telkomsa.net

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Leadership Development (Steven Covey) 7HB	2002	Covey Institute (Utah) USA
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2002-- Established a non profit organization Skills Fountain NPO
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- 2009 Trustee- Independent Development Trust
- 2009 AlanDick Director
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Mr Khumalo M.	CSIR	0837799881
Peggy Sue Khumalo	Investec	082 99555 22
Mr Nhlanhla Gasa	Chairman ABSA Board	083 376 0507

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- Principal of the Day – Chicago City October 2005

ACCREDITATION, MEMBERSHIP AND REGISTRATION

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- National and KZN Department of Education
- National Staff Development Council Member - USA

CURRENT READINGS

Leadership : Authors Rob Goffee and Gareth Jones **"Why should anyone be led by you**

FranklinCovey™

Dear Dudu,

We would like to invite you to be our guest at the Franklin Covey 2001 International Leadership Symposium. It will be held in Salt Lake City, Utah, on October 10-12, 2001. The title of our conference this year is "Unleashing the Power of Human Potential, and will include as Keynote Speakers:

General H. Norman Schwarzkopf
Jim Collins
Stephen R. Covey
Hyrum W. Smith
Meg Wheatley
Horst Schulze

We have heard of the good things you are doing in your country and feel you could benefit by attending this symposium. The following is a sample of the variety of workshops available to you during the 3 days of the workshop:

Simply Irresistible: Unleashing Your Power to Influence
Pam Walsh, Chief Talent Development Officer, Franklin Covey

You Are Not Alone: Launching a Change Leader Network
Shane Cragun, Vice President, General Manager, Franklin Covey Consulting

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Hattie Hill, International Consultant

Communication: The Key to a Dynamic Corporate Community
Amanda Gore, Author, Columnist

Unleashing Human Capital Through Diversity

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The Gift of Natural Learning
Roger Merrill
Wayne E. Brickey

These are only a few of the options you will have available to you. We look forward to seeing you there.

Sincerely,

Jay Williams
Franklin Covey
Client Partner.

COMMISSION OF INQUIRY INTO STATE CAPTURE

Ms Dudu Myeni - Mhlathuze Water Board

- Chairperson
- HR and Remuneration Committee
- Service Delivery Committee

Ms Dudu Myeni - Skills Dynamics

As a former teacher, Dudu's focus is on training and developing rural communities so that they can use their training as a vehicle to economic independence. Last year, 468 rural women benefited from Skills Dynamics' programmes, and Dudu was nominated to serve on the ABSA board - she became its only female board member. The company has adopted eight learners who have no means of their own to go to school. They sponsor their schooling and all the necessary equipment. They also adopted three schools to offer Management and Leadership Development to the newly established School Management Teams.

"Being a woman in SA, I had to do five times more than a man would do in business. Being black, I had to be 20 times more professional. I have found that hard work and excellence is the best deterrent to racism and racial judgments. Excellence is the best deterrent to sexism."

Myeni, a school-teacher turned business woman, heads up Skills Dynamics, a not-for-profit training organisation based in Richards Bay. She is also the chairperson of the Mhlathuze Water Board, the Director of Trade and Investment (KZN) and Provincial Board Member of ABSA - KZN.
A well-known personality in the business community, Myeni is also renowned for her quiet brand of philanthropy that has earned her the admiration of countless people in the region. Both through her company and in her personal capacity Myeni has undertaken a number of social development projects that range from organising and implementing a large-scale youth enterprise development programme to train 130 unemployed graduates to the simple act of buying groceries for poor families in the area.
Born and bred in KZN, Myeni says that she does what she does quite simply because people are "what make her tick".
"I love people. The more I interact with them the more I learn about human nature and myself," she says. This, coupled with the fact that in a country like South Africa there is such a big gap between rich and poor, is what has turned her into a philanthropist.
"I can't close my eyes when I see the poverty, the illiteracy and the suffering," she says. "I may not be able to help everyone but I can make a small difference. I believe it is possible to change the world one person at a time."
Myeni says that she was first encouraged to reach out to those around her when she started teaching at rural schools in the late 1980s. "When I started teaching I really became aware of poverty. I could see it, smell it and hear it in my class. It used to hurt so much," she says.
She started bringing her own children's second hand clothes and shoes to school to give to the poorer children in her class. This progressed to offering adult literacy classes to the parents at the school in a bid to create a better overall learning environment for the learners, which helped her to recognise her passion for developing skills in others. Ultimately this led to her moving beyond the school environment and setting up Skills Dynamics in 1999. The company works in association with some of KZN's biggest corporates to offer literacy, life skills and entrepreneurship development training and is committed to uplifting the people in the region both socially and economically.

In addition to the work that her business carries out, Myeni has also personally been involved in setting up some sixty job-creation co-operatives, predominantly comprised of rural women, kick-starting several education and training initiatives, and paying for the school fees of 10 children, as well as numerous *ad-hoc* acts of kindness such as organising medical treatment for a boy suffering fromelephantitis. She has also founded another not for gain organisation that is geared towards the sustainable economic upliftment of disadvantaged communities – namely the Skills Fountain. She assisted in the establishment of the KZN Institute for Local Government and Traditional Leadership.
Both of these organisations are governed by a Board of Directors that includes some of the region's most prominent business ad community leaders.

Myeni's rare combination of business acumen and empathy has ensured that she is able to build strong and lasting links between these leaders, corporate donors, government and needy communities.
"Dudu Myeni does not take no for an answer," says Dezray Naidoo, chairperson of the KZN

Businesswomans' Association. "Through her drive and passion she has mobilised government departments, large multi-nationals corporates, traditional leaders and community members to work together towards the common goal of improving the quality of life of the of the impoverished people of rural Zululand.

"The selfless giving that she does in her personal capacity is an inspiration to us all to make a positive difference in the lives of others."

Myeni collected the prestigious award at a high-profile awards dinner in Cape Town last week. Seven other people were also honoured in six other categories including Community Philanthropy, Youth in Philanthropy, Philanthropy in Health, Philanthropy in the Arts and Family Philanthropy. At the event a Lifetime Award for philanthropy was also made to Edgar Droste.



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COMMISSION OF INQUIRY INTO STATE CAPTURE

CURRICULUM VITAE

DUDUZILE CYNTHIA MYENI

PERSONAL DETAILS

Postal address:	PO Box 30527,Richards Bay, 3900
Residential address:	102 Kolstertkring, Meerensee.3901
Telephone numbers:	035- 7533 174
Facsimile:	035- 7533 171
	082- 875 6002
	dudumyeni@telkomsa.net

EDUCATIONAL BACKGROUND

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Franklin Covey
Client Partner.

COMMISSION OF INQUIRY INTO STATE CAPTURE

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

AFFIDAVIT

I, the undersigned,

LOURENS DANIEL ERASMUS

do hereby make the following statements under oath:

1. I am employed as the Head of Employee Relations at South African Airways SOC limited ("SAA"), 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 duties related to my position at SAA.

Qualifications and employment history with SAA

4. My qualifications are as follows:

- Post Graduate Degree;

  1988
  University of Pretoria
  BA Honours, Psychology

  1987
  University of Pretoria
  BA Honours, Industrial Sociology

  1986
  University of Pretoria
  BA Degree

  2005
  Gordon Institute of Business Science (GIBS)
  Executive Development Programme

5. I am an experienced Human Resources Professional with 19 years' experience at Executive/ Senior Management. Total of 29 years' experience, of which 27 years spent in the Human Resources field. I have occupied Senior and Executive positions in Human Resources in various industries as well as Operations in the ICT industry.

6. I have been employed at SAA from 9 April 2013 till present. I was employed as the Head of Employee Relations.

Introduction

7. This affidavit supplements information provided to the Zondo Commission regarding unfair disciplinary processes and dismissals of senior employees (management employees) in SAA, in particular, Dr. Masimba Phillip Dahwa, previously employed by SAA as the Chief Procurement Officer.

Disciplinary Process in SAA

8. Allegations of misconduct against a management employee may be investigated by the employee's superior or by a person or persons appointed by the Company to conduct such investigation. For example, in cases such as fraud, theft and corruption, the investigation may be led by the Company's internal investigation unit. Advice is sought form Human Resources and/ or Employee Relations when a matter is complex or an independent external party is required to investigate a matter, such as when the accused employee is a senior manager or Executive. An external party may only be appointed following a Request for a Quotation (RFQ) where all Labour Law firms on the SAA Panel are invited to quote. This process is facilitated through the Legal Department.

9. Any allegation or complaint raised by any person may be investigated by the Company. The line manager makes the decision on whether or not any such allegation or complaint is investigated but his decision is normally preceded by the manager obtaining advice from HR or ER.

10. The appointment of an Investigating Officer is not obligatory and disciplinary action may be initiated without the appointment thereof.

11. The purpose of appointing an Investigating Officer is to obtain evidence in order to determine whether there are sufficient grounds for a charge of misconduct against an employee.

12. The duties of the Investigating Officer are as follows:

12.1 To investigate the alleged misconduct of an employee;

12.2 To obtain evidence in order to determine whether there are sufficient grounds for a charge of misconduct against an employee;

12.3 To report on the above with a recommendation on whether or not a disciplinary hearing should be initiated; and

12.4 To indicate what the contents of the charge(s) against the employee should be, if applicable.

13. Any obstruction or hindrance to an investigation must be immediately reported to the relevant HR Manager who will report this to the relevant line management who may consider disciplinary action against the transgressing employee(s).

14. Upon completion of the investigation, a decision on whether or not to take the matter further and the nature of such further action, will be taken by the person to whom the management employee reports. Where it is decided to proceed with disciplinary steps, the management employee's superior shall determine, the nature of the disciplinary

procedure to be initiated taking into account the degree of the alleged transgression and the circumstances relating thereto.

15. The employer may initiate a disciplinary hearing. In terms of the disciplinary Code, the Company must appoint a disciplinary officer, who as far as possible should be the management employee's superior, or an employee who is on the same level as the management employee, to initiate the hearing. The decision to appoint an external disciplinary officer, is normally based on the following: when a matter is complex or an independent external party is required to investigate a matter, or the employee is very senior in SAA or is an Exco member.

16. The Company may suspend a management employee, on full pay, pending the completion of an investigation into allegations of misconduct and/or the finalisation of a disciplinary hearing.

17. In deciding on whether or not to suspend the employee, regard will be taken to factors such as:

17.1 The Company may suspend a management employee, on full pay, pending the completion of an investigation into allegations of misconduct and/or the finalisation of a disciplinary hearing.

17.2 In deciding on whether or not to suspend the employee, regard will be had to factors such as:

17.2.1 the seriousness of the alleged offence(s); or

17.2.2 where the Company believes that the presence of the employee might jeopardise any investigation into the alleged misconduct or endanger the well-being or safety of any person or Company property or pose a potential risk to the Company.

18. A suspension of this kind is a precautionary measure that does not constitute a finding of guilty and must be on full pay.

19. The company will appoint a presiding officer, who may be an employee or an external person, appointed for that specific purpose. The same procedure for appointing an external disciplinary officer applies here.

20. If a management employee fails, without good reason, to attend a disciplinary hearing, the hearing may proceed in his/her absence.

21. The company will arrange for a record of the disciplinary hearing proceedings to be kept, ideally on tape recording.

22. The chair will read the notice for the record and start the hearing.

23. The disciplinary officer will lead evidence on the conduct giving rise to the hearing.

24. The management employee or representative may question any witnesses introduced by the disciplinary officer.

25. The management employee will be given an opportunity to lead evidence.

26. The disciplinary officer may cross examine the witnesses presented on behalf of the management employee.

27. The presiding officer may ask any witness questions for clarification.

Finding

28. The presiding officer must decide on a balance of probabilities whether, based on the evidence presented in the hearing, the employee is guilty of the charges against him/ her.

29. The presiding officer must inform the employee of the finding and the reasons for it.

30. Before deciding on a sanction, the presiding officer must give the disciplinary officer and the employee an opportunity to present relevant circumstances in aggravation and mitigation.

31. The presiding officer, with due consideration to the Code of Good Practice in the Labour Relations Act, the nature of the case, the seriousness of the misconduct, the employee's previous record, any relevant mitigating or aggravating circumstances and sanctions imposed in similar or comparable cases in the past, may recommend that the Company impose any of the following sanctions:

31.1 counselling;

31.2 a written warning;

31.3 a final written warning;

31.4 dismissal.

32. The finding and sanction (where applicable) together with a report and record of the proceedings of the disciplinary hearing, must be recorded on the employee's personal file and copies submitted to Human Resources and Employee Relations.

33. The management employee has the right to appeal the outcome of the disciplinary proceedings in the case of any sanction short of dismissal.

34. In the event of a sanction of dismissal being given, following a disciplinary hearing, the employee will have the right to refer a dispute to the CCMA in terms of the Labour Relations Act.

The appointment of external parties

35. The Disciplinary Code allows for the appointment of external parties to act as disciplinary or presiding officer.

Serving of documents on employees for notices

36. The line manager or the Disciplinary Officer normally serves documents on employees for notices regarding disciplinary hearings.

Settlements

37. Settlement may be considered following the approval of both the Head of Employee Relations and the relevant Head of Department where the misconduct took place.

38. Factors to consider settlements are:

38.1 The likelihood of a ruling against the Company.

38.2 Costs in terms of compensation for procedural unfairness.

38.3 The Company's reputation.

38.4 Relevant Company policies.

Unfair Disciplinary Case - Dr. Masimba Phillip Dahwa, Chief Procurement Officer SAA

39. Dr. Masimba Phillip Dahwa was served with a letter containing a number of allegations from the Acting CFO, Ms Phumeza Nhantsi on the 3rd December 2015. He was also placed on special leave from the 3rd December 2015 until further notice. He was required to respond to the allegations made against him in the letter by the 11th December 2015.

40. The formal disciplinary hearing commenced on the 16th March. The Disciplinary and Presiding Officer were external lawyers. Dr Dahwa did not have legal representation.

41. On the 17th March 2015, Dr Dahwa submits a sick note advising that he is not able to attend the continuation of the hearing on the 18th March. BMK, the Attorneys acting as disciplinary officer, replied formally that despite his sick note the hearing will continue in his absence (**Annexure LE1**).

42. On the 18th March 2015, I, as the Head of Employee Relations, wrote to Dr Dahwa' s manager, Interim CFO, Ms Phumeza Nhantsi (**Annexure LE2**) advising her as follows:

"Dear Phumeza

I am concerned that this course of action will in fact expose SAA to risk.

1. All employees have the right to sick leave as provided for in the Basic Conditions of Employment Act and their contract of employment.

2. If an employee presents a sick certificate such is deemed valid unless there is a question relating to the authenticity of the sick certificate.

3. If indeed there is a question mark relating to the authenticity of the certificate, further investigation should be conducted with the assistance of the Medical Services department where they will liaise with the medical practitioner to establish the authenticity thereof.

4. If SAA were to proceed with the hearing today in the absence of Mr. Dahwa, he may raise a substantive and procedural fairness dispute against SAA with good prospects of success.

5. An independent dispute authority will most likely frown on SAA's approach of denying an employee the right to take sick leave, especially if issued by a registered medical practitioner recognised in terms of SA legislation, including labour legislation.

6. In my opinion, it would be advisable to postpone the hearing.

7. In the event that the certificate is found to be fraudulent following investigations, this may be added as a charge to the current charges."

43. This advice was ignored, and the hearing continued on the 18th March 2015, in Dr Dahwa's absence.

44. On the 30th March 2015, Dr Dahwa raised concerns to Ms Nhantsi that the bundle of evidence was tampered with, as a significant portion of his evidence was removed from the file **(Annexure LE3)**. He receives no response and sent a reminder on the 5th April and received a response on the 7th April:

"On Thu, 7 Apr, 2016 at 12:51, Phumeza Nhantsi <PhumezaNhantsi@flysaa.com> wrote:

Dear Masimba

Your email below refers.

I had thought that you had taken note of the last correspondence sent to you by the companies (sic) attorneys, where you were advised that the hearing will proceed. I have been advised that you never responded to such letter and the hearing proceeded in your absence as noted to you.

The hearing has been concluded and you will be advised shortly of the outcome and any other issue.

Regards

Phumeza Nhantsi | Interim Chief Finance Officer | Finance

Mobile: 060 544 5615 | Phone: +2711-978-1736 | E-Mail: PhumezaNhantsi@flysaa.com

6th Floor, Airways Park, OR Tambo International Airport- Johannesburg- South Africa"

45. To which Dr Dahwa responded (all included in the trail of email in **Annexure LE4** by email as follows:

"Dear Phumeza

Whether a decision was made or not my question regarding your deliberate tempering (sic) with my bundle of evidence remain unanswered and I reserve my right to raise this at the appropriate forum.

Apparently you deny receipt of any communications for reasons best known to you. Again I reserve my right to have these unfair labour practices dealt with at the appropriate forum.

Regards
Masimba Phillip Dahwa"

46. I escalated the matter to the General Manager HR, Mrs Thuli Mpshe and a meeting was requested from the GM: HR's office with the CFO. A meeting was scheduled for 1 April 2016.

47. On 1 April 2016, Ms Nhantsi advised me that she could not meet as scheduled, and on 5 April 2016, advised that Dr Dahwa' s hearing had been concluded in an email as follows (**Annexure LE5**):

From: Phumeza Nhantsi
Sent: 01 April 2016 12:36 PM
To: Thuli Mpshe; Lourens Erasmus (Employee Relations)
Subject: Discussion: Dr Dahwa

"Good day

Hope you are well

I have heard that you wanted to have an urgent meeting with me today regarding Dr Dahwa unfortunately I couldn't come to the office as I am not feeling well and apologies for that

But regarding the issue of Dr Dahwa I would not want to discuss anything right now as the Disciplinary Hearing has been completed by the Lawyers and I am waiting for the Lawyers to finalise and provide me with the ruling. That's if in this meeting you wanted to know the update on his case.

Regards

Phumeza Nhantsi | Interim Chief Finance Officer | Finance

Mobile: 060 544 5615 | Phone: +2711-978-1736 | E-Mail: PhumezaNhantsi@flysaa.com

6th Floor, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

From: Lourens Erasmus (Employee Relations)
Sent: 01 April 2016 12:46 PM
To: Phumeza Nhantsi; Thuli Mpshe
Cc: Musa Zwane
Subject: RE: Discussion: Dr Dahwa
Importance: High

Thanks Phumeza

Yes in fact we wanted to discuss this matter with you as the correspondence between you and Dr Dahwa may indicate that SAA may be at risk of procedural and substantive un-fairness relating to the matter. We wanted to discuss this with you in in the interest of SAA. We were not aware that the matter has in fact been completed by the lawyers. May I suggest that you engage Thuli and I before making a ruling.

regards

Lourens Erasmus | HOD: Employee Relations | Employee Relations - Human Resources

Phone: +2711-978-3365 | E-Mail: LourensE@flysaa.com

Room 135, 1st Floor, Block E, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

Good day Lourens

The process has been concluded and today I received a ruling from the Chairperson of the hearing. If there are any issues/complaints about the process (substantive or procedural) which the employee wishes to take up, I am advised by our external lawyers that Masimba can exercise his rights at an appropriate forum.

Regards,

Phumeza Nhantsi | Interim Chief Finance Officer | Finance

Mobile: 060 544 5615 | Phone: +2711-978-1736 | E-Mail: PhumezaNhantsi@flysaa.com

6th Floor, Airways Park, OR Tambo International Airport- Johannesburg- South Africa"

48. It was clear that the delay in meeting with the GM:HR, Ms Mpshe, and me was intentional.

49. I then asked Ms Khanyisile Khanyile, ER Specialist, to provide her opinion on the process followed in terms of Dahwa' s hearing. She emailed an opinion and concluded as follows (**Annexure LE6**):

"Dear Lourens

As per our discussion please find below our exposure in the event that Dr Dahwa is presented with the finding and the recommendation is carried out.

Given that this matter is riddled with procedural and substantive defects the outcome of the hearing should not be handed to Dr Dahwa at all. This is because whether or not the outcome finds the employee guilty or not guilty, the proceedings should never have proceeded in his absence and thus the outcome is inherently flawed.

The suspension also needs to be lifted urgently or we face a referral for unfair suspension. This is because our disciplinary code allows for an employee to be suspended *"pending the outcome of an investigation and/ or pending the outcome of a disciplinary hearing"*. The investigation has been completed as that would have been the basis of charging the employee and proceeding with the hearing. The disciplinary process has to be seen as completed because given its defects, we cannot proceed with giving Dr Dahwa the outcome when he was not given an opportunity to represent himself. Therefore, keeping him on suspension is unfair in terms of the Act and we could be exposed to a referral for unfair suspension if it continues.

In the event that the business unit does not agree or follow the aforementioned approach and dismisses Dr Dahwa the exposure is as follows:

In terms of the Labour Relations Act ("LRA") we are exposed to a claim for unfair dismissal. Given both the procedural and substantive fairness issues we would not likely be successful in defending a case brought by Dr Dahwa. As such we would be exposed to the maximum compensation of 12 months in the event that Dr Dahwa requests compensation.

In the event that Dr Dahwa requests reinstatement we would have to reinstate him and be liable for full back pay from when he was dismissed.

Given that Dr Dahwa is on a fixed term contract we would also be exposed to a civil claim **in addition to the exposure in terms of the LRA**. From a contractual perspective Dr Dahwa can claim that his fixed term contract was unfairly terminated and the damages that would be due to him would be the remainder of his contract as well as any renewal that was legitimately expected.

If there has been any reputational harm to Dr Dahwa, he can equally claim that under a civil claim.

The above scenarios should also cater for the legal costs that we would be liable for, both ours and Dr Dahwa's given that he would most likely be successful.

As such, we cannot recommend that the business unit issues the ruling to Dr Dahwa.

Kind regards

Khanyisile Khanyile | Employee Relations Specialist | Employee Relations

Phone: +2711-978-1163 | Fax: +2711-978-5645 | E-Mail: KhanyisileKhanyile@flysaa.com

Room 134,1st Floor,Block E,Airways Park- Johannesburg- South Africa"

50. On 7 April 2016, I responded to a query from Ms Catherine Mofokeng, the HR Business Partner (HRBP) responsible for HR support to Finance, on the Dr Dahwa process. I responded by email and addressed the email to Ms Mofokeng, Mr Zwane (Acting CEO), Ms Nhantsi and Ms Thembi Mngomezulu (Head of HRBP's) as follows (**Annexure LE7**):

"Dear Catherine

I respond to you based on the information I have available.

1. We know a ruling was made this week (although we are not aware of the contents thereof).
2. We know the presiding officer was not an employee of SAA.
3. If the ruling is that Dr Dahwa (the accused) is guilty of the charges laid against him, it seems that the following procedural flaws may expose SAA to risk:
   a. We know the disciplinary officer was not an employee of SAA, which is a requirement in terms of the disciplinary code for managers in SAA.
   b. It is clear that no representatives employed by SAA were present during the formal disciplinary hearings and that the CFO (the accused's direct Line Manager) was a witness in the hearing herself.
   c. It is clear HR was not present or invited to be present during the formal disciplinary hearings as required in terms of the disciplinary code for managers.
   d. The hearing continued despite a valid sick note from the accused (This presumption is drawn from the fact that there was no challenge as to the authenticity of the sick note upon submission thereof) .
   e. It seems that the accused did not have the opportunity to cross examine witnesses testifying/ evidence called or introduced by SAA against him (as he was not present due to illness).
   f. It seems the accused did not have the opportunity to call his own witnesses or re-examine his own witnesses (as he was not present due to illness).
   g. If found guilty, the accused was not informed of the verdict decision by the presiding officer, as required in terms of the disciplinary code for managers.

h. And if so, it seems the accused did not, following a "guilty" verdict decision, have the opportunity to present circumstances in mitigation of sanction as required in terms of the disciplinary code for managers.

i. I have been advised that there are allegations by the accused that his bundle of evidence has been tampered with after he had submitted it.

4. It seems the following substantive flaws may expose SAA to risk:

a. Due to the procedural flaws outlined in a. to i. above it is impossible for a presiding officer to properly and fairly reach a verdict and consider an appropriate recommendation/ sanction.

b. It seems the process leading to a finding against the accused is made on the strength of evidence from one party only – the "audi alterim partem" rule has not been applied.

c. Any sanction may be substantively unfair as the accused's rights to a fair hearing were denied.

5. Risks of proceeding with a sanction short of dismissal

a. The accused may submit an appeal against the sanction. The appeal authority will be the CEO who will have to review the case and make a decision as to whether the hearing outcome is to be upheld or not. If not upheld the accused may still refer a dispute to the CCMA to adjudicate.

6. Risks of proceeding with a sanction of dismissal

In the event that the CFO does not agree with the recommendations or follow the approach in 7 below and the accused is dismissed, the exposure to SAA is as follows:

a. In terms of the Labour Relations Act ("LRA") SAA is exposed to a claim for unfair dismissal. Given both the procedural and substantive fairness issues SAA would not likely be successful in defending a case brought by the accused. As such SAA would be exposed to the maximum compensation of 12 months in the event that the accused requests compensation.

b. In the event that the accused requests reinstatement, SAA would have to reinstate him and be liable for full back pay from when he was dismissed.

c. Given that the accused is on a fixed term contract we would also be exposed to a civil claim in addition to the exposure in terms of the LRA. From a contractual perspective the accused can claim that his fixed term contract was unfairly terminated and the damages that would be due to him would be the remainder of his contract as well as any renewal that was legitimately expected.

d. If there has been any reputational harm to the accused, he can equally claim *that* under a civil claim.

e. The above scenarios should also cater for the legal costs that we would be liable for, both ours and the accused's given that he would most likely be successful.

7. Recommendations

a. Given that this matter seems to be riddled with procedural and substantive defects the outcome of the hearing should not be handed to the accused at all. This is because whether or not the outcome finds the employee guilty or not guilty, the proceedings should never have proceeded in his absence and thus the outcome is inherently flawed.

b. The suspension also needs to be lifted urgently or we face a dispute referral for unfair suspension.

i. This is because SAA's disciplinary code for managers allows for an employee to be suspended "pending the outcome of an investigation and/ or pending the outcome of a disciplinary hearing".

ii. The investigation has been completed as that would have been the basis of charging the employee and proceeding with the hearing.

iii. The disciplinary process has to be seen as completed because given its defects, we cannot proceed with giving the accused the outcome when he was not given an opportunity to represent himself.

iv. Therefore, keeping him on suspension is unfair in terms of the Labour Relations Act and we could also be exposed to a referral for unfair suspension if it continues.

c. Based on all of the above, we cannot recommend that the Company issues the ruling to the accused.

regards

Lourens Erasmus | HOD: Employee Relations | Employee Relations - Human Resources

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51. On 11 April 2016, I wrote an email to Ms Nhantsi and Ms Mofokeng, copied are Ms Thuli Mpshe, GM HR and Ms Thembi Mngomezulu, Head of HRBP's to follow up on previous queries as follows (**Annexure LE8**):

"Dear Phumeza and Catherine

On Thursday the 7th April I submitted my advice on this matter. To date I have not been afforded a response to this. Please advise whether you have considered my advice below."

52. On 14 April 2016, I received a response from Ms Nhantsi (responses in red in the body of the original email are from Ms Nhantsi). The response was addressed to myself, Ms Mpshe; Ms Mofokeng; Mr Zwane, Acting CEO together with my response to Ms Nhantsi **(Annexure LE9):**

"Hi Lourens

Thank you, I will take it up with Thuli.

Regards

Phumeza Nhantsi | Interim Chief Finance Officer | Finance

Mobile: 060 544 5615 | Phone: +2711-978-1736 | E-Mail: PhumezaNhantsi@flysaa.com
6th Floor, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

From: Lourens Erasmus (Employee Relations)
Sent: 14 April 2016 01:26 PM
To: Thuli Mpshe; Phumeza Nhantsi
Cc: Musa Zwane; Catherine Mofokeng; Thembi Mngomezulu
Subject: RE: Urgent Advise needed
Importance: High

Dear Thuli and Phumeza
I note the lawyers draft response in red to my e-mail below. My viewpoint remains that this process was procedurally and substantively flawed and may expose SAA to risk.

1. According to my information, the Interim CFO proceeded with this matter from the start without consulting and involving HR. I was certainly not consulted on the matter and I am advised that neither was the HRBP department. HR was drawn in only on certain occasions where Dr Dahwa was called in by the ICFO to witness such meetings.
2. As HR was not involved from the outset in this case (as per normal procedure and practice), HR was not even invited to attend these proceedings, it did not attend accordingly.
3. On the matter of the sick note, my advice to the ICFO on the 18th March was that:

" 1. All employees have the right to sick leave as provided for in the Basic Conditions of Employment Act and their contract of employment.
2. If an employee presents a sick certificate such ***is deemed valid unless there is a question relating to the authenticity of the sick certificate***.

3. If indeed there is a question mark relating to the authenticity of the certificate, further investigation should be conducted with the assistance of the Medical Services department where they will liaise with the medical practitioner to establish the authenticity thereof."
The response from the lawyers is "The employee was requested to avail himself for purposes of authentication. **How does the employee present himself for purposes of authentication when he is incapacitated?** Correspondence was also sent to Masimba, where he was advise of the employer' stance in as far as his sick note was concerned and what is expected of him in light of that sick note. **The attached letter from BMK Attorneys does not specify what was required of Dr Dahwa to do in terms of his sick note , nor was the authenticity of the sick note challenge by them. Instead he was advised that should he "elect not to appear" the hearing would proceed without him. His presentation of a sick note was not an election not to appear but a valid explanation of his absence. If this was disputed by the company then an investigation should have been conducted, which investigation would still have required a postponement of the hearing.** He failed to respond to such a correspondence which was very directive that the hearing will proceed without him." **It is my information that he did in any case respond to this correspondence form BMK Attorneys on the same day which was also the day of the hearing. I fail to understand how the letter from BMK justifies the continuance of the proceedings. It is clear the authenticity of the sick note was not properly challenged and my advice was ignored.**

4. In terms of (i) below, the normal procedure to follow when consolidating bundles is that the parties must agree on the deletions/ inclusions and obviously the final bundle. Clearly this never happened and if that is the case a serious risk to SAA arises.

5. Based on the above my risk assessment and recommendations remain as per the e-mail of 7 April.

6. As a result of the above the procedural and substantive challenges remain as per my advice in the e-mail of 7 April 2016.

Thuli, based on the above it is my view that HR cannot participate in a disciplinary process that it has not been involved in from the start. As you know, you and I tried to intervene and I did provide advice (albeit from an arm's length away) on the 18th March, 7 April and 11 April.

I hereby escalate this matter to you as my superior for urgent attention.

regards
Lourens Erasmus | HOD: Employee Relations | Employee Relations - Human Resources

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Room 135, 1st Floor, Block E, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

From: Phumeza Nhantsi
Sent: 14 April 2016 09:03 AM
To: Lourens Erasmus (Employee Relations)
Cc: Thuli Mpshe; Catherine Mofokeng; Musa Zwane
Subject: FW: Urgent Advise needed

Hi Lourens

Hope you are well

Below please receive my response to your questions that you have raised. As we have spoken on the phone, I need to finalise this matter and would like you to avail yourself or send a representative.

We know a ruling was made this week (although we are not aware of the contents thereof).

1. We know the presiding officer was not an employee of SAA.
2. If the ruling is that Dr Dahwa (the accused) is guilty of the charges laid against him, it seems that the following procedural flaws may expose SAA to risk:

a. We know the disciplinary officer was not an employee of SAA, which is a requirement in terms of the disciplinary code for managers in SAA.

HR/ER (interchangeable) knew or ought to have known this fact and provided guidance at the very early stages. Furthermore, the employee was advised of the DC approach and raised no objection in respect of the appointment of the Chairperson or any other external party. The employee was afforded an opportunity to be represented by either a fellow employee or an external person at the hearing. It is a matter of construction whether the policy prohibits participation of external person at a DC. This point was further dealt with on the first day of the hearing, where the employee sought to delay the hearing because his alleged representative needed over 20 work days to prepare. This is notwithstanding the fact that the said employee representative has never placed himself/herself on record as the employee representative. Further, it is not new at SAA that an external and independent parties are appointed/participate in the DC.

b. It is clear that no representatives employed by SAA were present during the formal disciplinary hearings and that the CFO (the accused's direct Line Manager) was a witness in the hearing herself.

The employee chose to represent himself. The Acting CFO was a material witness at the enquiry. It is also not new at SAA that a line manager is a witness at or during the hearing. For example, in the more recent matter involving an employee within Risk & Compliance Dept, the line manager testified on behalf of the employer. How is this different from Masimba' matter?

c. It is clear HR was not present or invited to be present during the formal disciplinary hearings as required in terms of the disciplinary code for managers.

HR was aware of the hearing and dates thereof. Notices of hearing were served to the employee in the presence of HR. It can only be deduced that HR chose not to attend for whatever reasons.

d. The hearing continued despite a valid sick note from the accused (This presumption is drawn from the fact that there was no challenge as to the authenticity of the sick note upon submission thereof) .

It cannot be correct to assume that a sick note is valid when it is not authenticated. The employee was requested to avail himself for purposes of authentication. Correspondence was also sent to Masimba, where he was advise of the employer' stance in as far as his sick note

was concerned and what is expected of him in light of that sick note. He failed to respond to such a correspondence which was very directive that the hearing will proceed without him.

e. It seems that the accused did not have the opportunity to cross examine witnesses testifying/ evidence called or introduced by SAA against him (as he was not present due to illness).

The employee was given an opportunity to cross examine witnesses. Precisely, he had cross examine the Acting CFO and Mr Luthuli amongst other witnesses.

f. It seems the accused did not have the opportunity to call his own witnesses or re-examine his own witnesses (as he was not present due to illness).

The employee was given the opportunity and decided to stay away from the hearing.

g. If found guilty, the accused was not informed of the verdict decision by the presiding officer, as required in terms of the disciplinary code for managers.

The presiding officer can be arranged if necessary to read the verdict, but the employee decided to stay away from the hearing. But the advice received from ER/HR was that they only need to be present when the verdict is read.

h. And if so, It seems the accused did not, following a "guilty" verdict decision, have the opportunity to present circumstances in mitigation of sanction as required in terms of the disciplinary code for managers.

This could not have been done as the employee decided to stay away from the hearing.

i. I have been advised that there are allegations by the accused that his bundle of evidence has been tampered with after he had submitted it.

There was no tempering with the employee' bundle. But it was the agreement of both the employee and employer to consolidate their bundles. Also, the allegation of tempering with the bundle were never raised by the employee during the hearing.

3. It seems the following substantive flaws may expose SAA to risk:

I have been advised by our external legal advisors that there are no substantive or procedural flaws. If there are any, the employee will have to raise these formally and at an appropriate forum.

a. Due to the procedural flaws outlined in a. to i. above it is impossible for a presiding officer to properly and fairly reach a verdict and consider an appropriate recommendation/ sanction.

b. It seems the process leading to a finding against the accused is made on the strength of evidence from one party only – the "audi alterim partem" rule has not been applied.

c. Any sanction may be substantively unfair as the accused's rights to a fair hearing were denied.

4. Risks of proceeding with a sanction short of dismissal

The employee is well within his right to appeal or review the decision taken.

a. The accused may submit an appeal against the sanction. The appeal authority will be the CEO who will have to review the case and make a decision as to whether the hearing

outcome is to be upheld or not. If not upheld the accused may still refer a dispute to the CCMA to adjudicate.

5. Risks of proceeding with a sanction of dismissal

It is unclear how the employee will be successful in pursuing the matter further. We should refrain from speculating and let the appropriate forums to decide.
In the event that the CFO does not agree with the recommendations or follow the approach in 7 below and the accused is dismissed, the exposure to SAA is as follows:

a. In terms of the Labour Relations Act ("LRA") SAA is exposed to a claim for unfair dismissal. Given both the procedural and substantive fairness issues SAA would not likely be successful in defending a case brought by the accused. As such SAA would be exposed to the maximum compensation of 12 months in the event that the accused requests compensation.

b. In the event that the accused requests reinstatement, SAA would have to reinstate him and be liable for full back pay from when he was dismissed.

c. Given that the accused is on a fixed term contract we would also be exposed to a civil claim in addition to the exposure in terms of the LRA. From a contractual perspective the accused can claim that his fixed term contract was unfairly terminated and the damages that would be due to him would be the remainder of his contract as well as any renewal that was legitimately expected.

d. If there has been any reputational harm to the accused, he can equally claim that under a civil claim.

e. The above scenarios should also cater for the legal costs that we would be liable for, both ours and the accused's given that he would most likely be successful.

6. Recommendations

These recommendations are not supported. The employee must receive the outcome of the DC, as any further delay may prejudice the company.

a. Given that this matter seems to be riddled with procedural and substantive defects the outcome of the hearing should not be handed to the accused at all. This is because whether or not the outcome finds the employee guilty or not guilty, the proceedings should never have proceeded in his absence and thus the outcome is inherently flawed.

b. The suspension also needs to be lifted urgently or we face a dispute referral for unfair suspension.

   i. This is because SAA's disciplinary code for managers allows for an employee to be suspended "pending the outcome of an investigation and/ or pending the outcome of a disciplinary hearing".

   ii. The investigation has been completed as that would have been the basis of charging the employee and proceeding with the hearing.

iii. The disciplinary process has to be seen as completed because given its defects, we cannot proceed with giving the accused the outcome when he was not given an opportunity to represent himself.

iv. Therefore, keeping him on suspension is unfair in terms of the Labour Relations Act and we could also be exposed to a referral for unfair suspension if it continues.

c. Based on all of the above, we cannot recommend that the Company issues the ruling to the accused.

regards
Lourens Erasmus | HOD: Employee Relations | Employee Relations - Human Resources"

53. On 21 April 2016, following a discussion I had with Ms Nhantsi, it was agreed that the BMK Attorney will meet with myself and Ms Khanyile regarding ER's concerns. The following email correspondence refers (**Annexure LE10**):

"**From:** Hester Du Toit
Sent: 19 April 2016 08:57 AM
To: Phumeza Nhantsi
Cc: Carol Chinjeke
Subject: Meeting with lawyers - Lourens

Dear Phumeza

I refer to our telecom of this morning.

Lourens will be available to meet with the lawyers tomorrow Thursday, 20 April at 5.15pm in his office as we he will be in wage negotiations for the day.

Regards

Hester Du Toit | Senior Secretary to Lourens Erasmus | Employee Relations

From: Phumeza Nhantsi [mailto:PhumezaNhantsi@flysaa.com]
Sent: Tuesday, April 19, 2016 11:40 AM
To: Hester Du Toit
Cc: Carol Chinjeke; Mbuleli Kolisi (mbuleli@bmkinc.co.za); Lourens Erasmus (Employee Relations)
Subject: RE: Meeting with lawyers - Lourens

Hi Hester

Thank you for the feedback, could you please set up a meeting then for tomorrow at 17:15 with Lourens, myself and Mbuleli and his email address is Mbuleli@bmkinc.co.za. I have also copied him on the email

Thank you

Phumeza Nhantsi | Interim Chief Finance Officer | Finance

Mobile: 060 544 5615 | Phone: +2711-978-1736 | E-Mail: PhumezaNhantsi@flysaa.com

6th Floor, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

From: Mbuleli Kolisi [mailto:mbuleli@bmkinc.co.za]
Sent: 22 April 2016 05:13 AM
To: Phumeza Nhantsi
Cc: Lourens Erasmus (Employee Relations)
Subject: RE: Meeting with lawyers - Lourens

Dear Mrs. Nhantsi,

The disciplinary hearing of Dr MP Dahwa and subsequent enquiries made by the Employee Relations Department (ER) bear reference. Most importantly, the meeting of yesterday, 21 April 2016, between the writer hereof, Mr. Lourens Erasmus ("Lourens") and Khanyisile has further reference.

At the aforesaid meeting, the writer had an opportunity, for the first time, to consider what was referred to as "concerns" by the ER about certain issues that pertain to the manner in which the disciplinary hearing and other related processes were handled. For all intents and purposes, the less said about what those "concerns" are and what actually transpired at the aforesaid meeting, the better.

Suffice it to say that towards the end of the meeting, based on what had transpired and in the light of the nature of questions raised by both Lourens and Khanyisile, it was resolved that it would take more than that particular meeting to fully brief the ER team on the entire matter and, to the extent that they (ER team) would like to gain clarity on certain issues, then a formal meeting for such an engagement process would have to be arranged and, if such a process was to be approved by the Employer, it would certainly not take less than a day to assist the ER to get relevant information about and gain better understanding of the matter.

As things presently stand, and due to very limited information (or lack thereof) that the ER has about the matter, **it would not be appropriate at this stage for the ER to make any allegations or conclusions about fairness or otherwise of the entire process**, as they have not yet, according to our view, taken adequate and reasonable measures and steps to familiarise themselves with most of the pertinent issues, including what would have informed certain decisions that were taken as well as the manner in which each of the parties conducted themselves prior to and during the disciplinary proceedings.

Accordingly, the concerns or questions raised by the ER yesterday could not be adequately, properly and satisfactorily addressed due to the manner in which the meeting was structured and how the entire meeting/process was approached by the attendees at that particular meeting. In terms of the correct understanding of fundamental issues regarding how the entire process was coordinated, handled and managed, the ER and the professionals (especially BMK) who assisted with the management of the matter are poles apart, and therefore, it remains the prerogative of the Employer to take final decision on how the matter should be finally resolved, and most importantly, how the disciplinary outcome is to be handled.

Most pertinently, we note that the Chairperson of the disciplinary hearing is scheduled to come in at SAA today to communicate/deliver the outcome of the disciplinary hearing. Our understanding is that HR and ER are not willing to be part of today's process until and unless full reasons are given to them as to why and how the process had to unfold in the matter in which it did, and why certain decisions were taken without their inputs, involvement and guidance- so it goes their contention.

We find the decision by the Employer to invite the Chairperson to come and deliver the ruling of the hearing quite unusual, as the norm would generally be that the outcome would be communicated by the Employer directly to the Employee. However, the reasons for this unusual request (that is to say that the Chairperson should be the one who physically communicates/delivers the outcome) are now apparent, as the ER and HR contend that they do not want to be part of this process at this advanced stage. In this regard, we are not in a position to get involved in the internal processes of SAA/Employer, and thus, we strictly reserve our comments and views about this untenable and unprecedented state of affairs.

We shall await further instructions from you regarding any further processes that should ensue henceforth.

Kind regards

Mbuleli"

"**From:** Lourens Erasmus (Employee Relations)
Sent: 22 April 2016 09:14 AM
To: Thuli Mpshe; Phumeza Nhantsi
Subject: RE: Meeting with lawyers - Lourens

Dear Thuli

Please note Mbuleli' s note to Phumeza. We maintain our viewpoint unreservedly on this matter. Numerous of our concerns were not adequately addressed. The only aspect we had consensus on in the meeting yesterday was that ER should have a comprehensive understanding of what transpired and what evidence and rulings were made in terms of said evidence, information and facts as it is ER who would have to deal with any disputes at the CCMA regarding this matter (in the event that a sanction of dismissal is executed).

Due to the fact that ER/ HR was not involved with this case it is not proper for us to be involved in the process at this late stage, especially in the light of our concerns as articulated in writing and in meetings.

regards

Lourens Erasmus | HOD: Employee Relations | Employee Relations - Human Resources

Phone: +2711-978-3365 | E-Mail: LourensE@flysaa.com

Room 135, 1st Floor, Block E, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

Sent: Fri 2016/04/22 10:28

Dear Lourens

Thank you for the feedback.

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"

54. Dr. Dahwa was dismissed on 22 April 2016. See termination notice **Annexure LE11** and Dr Dahwa Ruling **Annexure LE12.**

55. Dr Dahwa then declared a dispute at the CCMA for unfair dismissal. In preparation, Ms Khanyile, the ER Specialist assigned to handle the conciliation, wrote an email to me with the following advice on 26 May 2016 (**Annexure LE13**):

"Dear Lourens

I have now received the notice of set down for conciliation for this matter and I asked for the documents in order to start preparing. So far Catherine says she was only provided with the outcome and the notice of sanction.

Based on my reading of the outcome I have identified a few issues on the face of the outcome.

1. The employee was charged with *"refusal or failure to carry out a lawful and reasonable instruction in that he was issued an instruction to say why he should not be suspended and no response was received from the employee"*.

2. Despite the above charge, the CFO admits, in paragraph 42, to having received a response on 9 February indicating that he had responded. Furthermore, in paragraph 44 she testifies that in an email on 4 February the employee responded by referring to an email sent on 11 December in which the employee "allegedly responds" and states that he does not see any new matters which he needs to respond to.

3. At paragraph 39 there is an admission that the employee was placed on special leave after he was questioned about not implementing a board resolution regarding SwissPort and the drafting of a contract for SwissPort.

4. The employee raised the issue of who was the D/O (Disciplinary Officer) and P/O (Presiding Officer) and who was charging him and it was confirmed under cross examination by the CFO that she was the one charging him.

5. At paragraph 50 the P/O indicates that he drew the employee to evidence that should have been led by the employer. This evidence has not been referred to anywhere else in the outcome prior to this paragraph. To me this shows that the P/O was complicit in proving a case against the employee and was not impartial in his duties. I should mention that this is raised while the employee was cross examining the CFO and not in his testimony.

6. The employee raised the issue of the capacity of all involved in the disciplinary process and alleged that an expert was needed on drafting contracts and the process in procurement. In particular the issue of there being attorneys present who did not understand the issues relating to procurement.

7. The employee was charged with *"dereliction of duties in that he delayed and/ or refused to constitute the relevant governance committees set up for the purpose of evaluating and adjudicating a tender for the modernisation of the cargo terminal at ORTIA"*. The employee put it to Mr Luthuli who was called to testify that the employee had suggested that this tender be cancelled because of irregularities relating to specifications and

composition of the CFST. Mr Luthuli denied this but he would not be the expert on this issue.

8. Paragraph 83 deals with the sick note submitted by the employee. The veracity of the certificate is not challenged.

9. Yakhe Kwinana and Mimmi Attias testified and were not cross examined because "the employee had stayed away from the proceedings.

10. The P/O in paragraph 99 finds the employee unwilling to take instructions and makes reference to him not making representations on why he should not be suspended and thus not following an instruction. The employee is also accused of attempting to stall the proceedings by producing a "hollow medical certificate".

11. Paragraph 100 states that the employee "*was prepared to walk away from the proceedings without giving himself a chance to cross examine the last two witnesses and that this can only work against him*". Reference is again made to an "*irregular medical certificate*". However, the veracity of the certificate was never actually challenged.

12. The P/O relied on the case of Old Mutual Life Assurance v Gumbi which I read. This case is different in that the disciplinary hearing had first taken place without the employee being present because of a sick note, but upon appeal he was reinstated and then charged again. At the second hearing he was represented and fell sick during the hearing. This, however, took place after the employee's representative was rude and obstructive. Furthermore, when the sick note was presented the chairperson gave the employee a chance to recover and then to proceed but the employees representative insisted that the employee would not return and that the process could continue. The sick note also did not indicate that the employee was unable to continue with the proceedings given that the diagnosis was "tension headache and enteritis". Of importance however is that the employee was afforded an opportunity to present himself and this was communicated to his representative, who refused the offer on the employee's behalf. There is no indication in Dr Dahwa's case that he was afforded a similar opportunity based on the outcome.

The above is in addition to the concerns already expressed. On this basis I thus believe that we are still highly exposed should we proceed with defending this matter.

Kind regards

Khanyisile Khanyile | Employee Relations Specialist | Employee Relations"

56. The above email points out all the defects in Ms Nhantsi' s case against Dr Dahwa.

57. On 3 June 2016, the Conciliation attempt failed at the CCMA and Dr Dahwa filed a CCMA Form 7.13 requesting that the matter be arbitrated through his attorneys **(Annexure LE14)**.

58. At arbitration the parties at some point engaged in settlement discussions and reached agreement thereon (see **Annexure LE15**).

59. The disciplinary process as contained in the Company policy and as outlined in this affidavit was not adhered to by Ms Nhantsi despite my numerous attempts to advise her of the substantive and procedural unfairness in her approach to Mr. Dahwa's disciplinary process. The settlement, in my opinion, is a demonstration of fruitless and wasteful expenditure orchestrated by Ms Nhantsi and assisted by Mr Mbongeni Manqele, Acting GM: HR, together with Mr Kolisi from BMK attorneys. Had our persistent advice and objection to the disciplinary proceedings been adhered to, there would have been no need for a settlement. In trailing email correspondence **(Annexure LE16)**, from the role players, the settlement agreement was hatched as follows:

"**From:** Mbuleli [mailto:mbuleli@bmkinc.co.za]
Sent: 17 September 2016 3:14 PM
To: Lourens Erasmus (Employee Relations) <LourensErasmus2@flysaa.com>
Cc: Mbongeni Manqele <MbongeniManqele@flysaa.com>; Khanyisile Khanyile <KhanyisileKhanyile@flysaa.com>
Subject: Re: SOUTH AFRICAN AIRWAYS SOC LTD // DR DAHWA

Dear Lourens,

Please be advised that Dr Dahwa's legal representative is in full agreement with what is set out in my e-mail.

Kind regards

Mbuleli

Sent from my iPhone

On 17 Sep 2016, at 3:00 PM, Lourens Erasmus (Employee Relations) <LourensErasmus2@flysaa.com> wrote:

Dear Mbuleli

Surely, as a lawyer, you should obtain Mr Dahwa's legal representative's formal response before advising SAA to continue as you do below?

regards

Lourens Erasmus | HOD: Employee Relations | Employee Relations - Human Resources

Phone: +2711-978-3365 | E-Mail: LourensErasmus2@flysaa.com

Room 135, 1st Floor, Block E, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

From: Khanyisile Khanyile
Sent: 16 September 2016 6:58 PM
To: Lourens Erasmus (Employee Relations) <LourensErasmus2@flysaa.com>
Subject: Fwd: SOUTH AFRICAN AIRWAYS SOC LTD // DR DAHWA

Dear Lourens

Please see below.

Sent from my Samsung Galaxy smartphone.

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

From: Mbuleli Kolisi <mbuleli@bmkinc.co.za>

Date: 16/09/2016 16:05 (GMT+02:00)

To: Mbongeni Manqele <MbongeniManqele@flysaa.com>

Cc: Khanyisile Khanyile <KhanyisileKhanyile@flysaa.com>

Subject: RE: SOUTH AFRICAN AIRWAYS SOC LTD // DR DAHWA

Dear Mr. Manqele,

We refer to the above-mentioned subject matter and the mutual separation agreement reached between SAA and Dr. Dahwa.

A short-while ago, we had a telephone discussion with Ms. Khanyile who enquired about the precise date(s) which should be referenced in the certificate of service required in terms of the aforesaid mutual separation agreement.

Usually, the date of dismissal is an appropriate and preferred date to be used, within the context of settlement- it should be indicated as the last date of service. Accordingly, my considered view is that SAA should use the same date for purposes of the required certificate of service for Dr. Dahwa. I tried to contact Dr. Dahwa's legal representative just to confirm that they are of a similar understanding, but could not reach them.

Effectively, and as a matter of principle, Dr. Dahwa left SAA's employment on the date of his dismissal, and therefore, there is nothing untoward with SAA using that date as the last date of his service period. The understanding, based on the settlement agreement, is that the certificate of service will record that Dr. Dahwa had resigned, as opposed to him having been dismissed. The effect of the settlement agreement is that, by agreement between the parties, the dismissal record, as it currently stands, is being expunged.

Kind regards

Mbuleli

From: Mbongeni Manqele [mailto:MbongeniManqele@flysaa.com]
Sent: 16 September 2016 10:11 AM
To: Mbuleli
Subject: RE: SOUTH AFRICAN AIRWAYS SOC LTD // DR DAHWA

I shall get to this now

Mbongeni Manqele | Acting General Manager Human Resources | Human Resources

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

6th Floor,A Block,Airways Park,OR Tambo International Airport- Johannesburg- South Africa

From: Mbuleli [mailto:mbuleli@bmkinc.co.za]
Sent: 16 September 2016 10:03 AM
To: Phumeza Nhantsi
Cc: Mbongeni Manqele
Subject: Re: SOUTH AFRICAN AIRWAYS SOC LTD // DR DAHWA

Good morning Mrs. Nhantsi and Mr. Manqele,

Thank you very much for the signed mutual separation agreement.

As you may be aware, the arbitration process is set down for Monday and no certificate of service has been issue yet and, we also await tax directive or confirmation of payment.

Kindly advise as to the current position.

Kind regards

Mbuleli

Sent from my iPhone

On 12 Sep 2016, at 4:02 PM, Phumeza Nhantsi <PhumezaNhantsi@flysaa.com> wrote:

Hi Mbo,

Please advise on the process or could you confirm that you are working on this settlement

Regards

Phumeza Nhantsi | Interim Chief Finance Officer | Finance

<image005.jpg>Mobile: 060 544 5615 | Phone: +2711-978-1736 | <image006.jpg>E-Mail: PhumezaNhantsi@flysaa.com

6th Floor, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

From: Phumeza Nhantsi
Sent: 09 September 2016 12:35 PM
To: Mbongeni Manqele
Subject: Fwd: SOUTH AFRICAN AIRWAYS SOC LTD // DR DAHWA
Importance: High

Hi Bhuti

Please advise as we need to settle

Regards

Sent from my Samsung Galaxy smartphone.

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

From: Mbuleli Kolisi <mbuleli@bmkinc.co.za>

Date: 09/09/2016 09:03 (GMT+02:00)

To: Phumeza Nhantsi <PhumezaNhantsi@flysaa.com>

Subject: FW: SOUTH AFRICAN AIRWAYS SOC LTD // DR DAHWA

Dear Phumeza,

We refer to the above subject matter and our previous communications.

Our understanding is that the parties have agreed to settle the labour dispute as per the attached settlement agreement.

From the governance point of view, we understand that the GM: Human Resources has the prerogative to settle claims up to R2 Million.

Kindly confirm that all internal processes have been complied with and that SAA is in a position to request the necessary tax directive and to settle the agreed amount.

Kind regards

Mbuleli

<image006.jpg>

From: Mbuleli Kolisi [mailto:mbuleli@bmkinc.co.za]
Sent: 06 September 2016 07:53 AM
To: Phumeza Nhantsi; Musa Zwane
Subject: RE: SOUTH AFRICAN AIRWAYS SOC LTD // DR DAHWA
Importance: High

Dear Phumeza,

We refer to the above-mentioned matter.

As you are aware, the parties have been engaged on a without prejudice settlement discussions. Initially, Dr. Dahwa asked for the balance of his contract, which SAA rejected. Subsequently, he asked for 9 (nine) months, which was further rejected. He later on asked for 7 (seven) months, we which was not accepted.

In the end, the parties agreed on 6 (six) months remuneration as basis for mutual separation, as full and final settlement. The draft settlement agreement setting out terms and conditions is attached for you to consider and approve.

The employee has already signed, but that is not indicative that the settlement is final. SAA still has to confirm whether or not the attached draft settlement is acceptable in its current terms.

Kindly make time for us to discuss, should you wish to obtain advice on any of the issues.

Kind regards

Mbuleli

<image004.jpg>

From: Alex Davies [mailto:alex@jrattorneys.co.za]
Sent: 05 September 2016 09:30 AM
To: mbuleli@bmkinc.co.za
Cc: johanette@jrattorneys.co.za
Subject: SOUTH AFRICAN AIRWAYS SOC LTD // DR DAHWA
Importance: High

Dear Mr Kolisi

The above matter refers.

We have prepared a mutual separation agreement in the terms agreed upon by the parties during the course of last week.

Our client has signed same and we attach the signed document hereto for your attention and for signature.

We trust that you find the above in order and look forward to your response hereto.

Kind regards,

Alex Davies"

I know and understand the contents of this affidavit.

I have no objection to taking the prescribed oath.

I consider the prescribed oath to be binding on my conscience.

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 Sandton on this the 17th day of February 2018 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:

Shivani Moodley
Commissioner of Oaths
Practising Attorney SA
ENSafrica
The MARC | Tower 1
129 Rivonia Road Sandton

LE4

Lourens Erasmus (Employee Relations)

From:	Dr. Masimba Dahw <mpdahwa@yahoo.co.uk>
Sent:	Friday, 08 April 2016 09:25
To:	Phumeza Nhantsi; masidahwa@gmail.com
Cc:	Thuli Mpshe; Catherine Mofokeng; Lourens Erasmus (Employee Relations); Phillip Dahwa Dr Masimba
Subject:	RE: Tempering With Employee Bundle of Documents

Dear Phumeza

Whether a decision was made or not my question regarding your deliberate tempering with my bundle of evidence remain unanswered and I reserve my right to raise this at the appropriate forum.

Apparently you deny receipt of any communications for reasons best known to you. Again I reserve my right to have these unfair labour practices dealt with at the appropriate forum.

Regards

Masimba Phillip Dahwa

Sent from Yahoo Mail on Android

On Thu, 7 Apr, 2016 at 12:51, Phumeza Nhantsi <PhumezaNhantsi@flysaa.com> wrote:

Dear Masimba,

Your email below refers.

I had thought that you had taken note of the last correspondence sent to you by the companies attorneys, where you were advised that the hearing will proceed. I have been advised that you never responded to such letter and the hearing proceeded in your absence as noted to you.

The hearing has been concluded and you will be advised shortly of the outcome and any other issue.

Regards

Phumeza Nhantsi | Interim Chief Finance Officer | Finance

Mobile: 060 544 5615 | Phone: +2711-978-1736 | E-Mail: PhumezaNhantsi@flysaa.com

6th Floor, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

From: Dr Masimba, Phillip Dahwa [mailto:masidahwa@yahoo.co.uk]
Sent: 06 April 2016 07:49 AM
To: Phumeza Nhantsi
Cc: Thuli Mpshe; Catherine Mofokeng; Lourens Erasmus (Employee Relations); Dr. Masimba Dahw
Subject: Re: Tempering With Employee Bundle of Documents

Dear Phumeza

My email dated 30 March 2016 refers.

Please note that I still have not received a response to my above email and subject. As raised with you, I am seriously concerned about this development and I would greatly appreciate if you can provide me with a response.

Regards

Masimba Phillip Dahwa

COMMISSION OF INQUIRY INTO STATE CAPTURE

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Directors

DC Myeni* (Chairperson) T 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 ME

COMMISSION OF INQUIRY INTO STATE CAPTURE

COMMISSION OF INQUIRY
INTO STATE CAPTURE

LE2

Lourens Erasmus (Employee Relations)

From: Lourens Erasmus (Employee Relations)
Sent: Friday, 18 March 2016 10:26
To: Phumeza Nhantsi
Cc: Thuli Mpshe; Musa Zwane; Thembi Mngomezulu
Subject: FW: Re: Dr Dahwa
Attachments: Letter to Dr Dahwa from SAA 17 3 2016.pdf

Importance: High

Dear Phumeza
I am concerned that this course of action will in fact expose SAA to risk.

1. All employees have the right to sick leave as provided for in the Basic Conditions of Employment Act and their contract of employment.
2. If an employee presents a sick certificate such is deemed valid unless there is a question relating to the authenticity of the sick certificate.
3. If indeed there is a question mark relating to the authenticity of the certificate, further investigation should be conducted with the assistance of the Medical Services department where they will liaise with the medical practitioner to establish the authenticity thereof.
4. If SAA were to proceed with the hearing today in the absence of Mr Dahwa, he may raise a substantive and procedural fairness dispute against SAA with good prospects of success.
5. An independent dispute authority will most likely frown on SAA's approach of denying an employee the right to take sick leave, especially if issued by a registered medical practitioner recognised in terms of SA legislation, including labour legislation.
6. In my opinion, it would be advisable to postpone the hearing.
7. In the event that the certificate is found to be fraudulent following investigations, this may be added as a charge to the current charges.

regards
Lourens Erasmus | HOD: Employee Relations | Employee Relations - Human Resources

Phone: +2711-978-3365 | E-Mail: LourensE@flysaa.com
Room 135, 1st Floor, Block E, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

From: Phumeza Nhantsi
Sent: 18 March 2016 08:45 AM
To: Lourens Erasmus (Employee Relations)
Subject: Re: Dr Dahwa

Good day Lourens

Hope you are well

I would like to inform you specifically from the Employee Relations perspective that the process for his hearing started on Monday the 16th of March 2016, and yesterday he then sent a sick note from the Dr. I would like to just inform you that I consulted the lawyers and they are deeming this as one of the delaying tectics and the hearing if he does not come will continue without him

Attached please find the letter that has been sent to him

Phumeza Nhantsi | Interim Chief Finance Officer | Finance

Mobile: 060 544 5615 | Phone: +2711-978-1736 | E-Mail: PhumezaNhantsi@flysaa.com
6th Floor, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

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COMMISSION OF INQUIRY INTO STATE CAPTURE

BMK ATTORNEYS

Our Reference	: Mr M Kolisi/SAA 0000.2/16
Your Reference	: Dr MP Dahwa
Mobile Number	: 073 090 7116
Direct Fax	: 086 693 1779
Email Address	: mbuleli@bmkinc.co.za
Date	: 17 March 2016

CHIEF PROCUREMENT OFFICER (CPO)

Dr Masimba Phillip Dahwa

3 Claron Park'

45 Theron Street

Clarina, Pretoria

E-mail: masidahwa@yahoo.co.uk

Dear Dr MS Dahwa

RE: SOUTH AFRICAN AIRWAYS (SOC) LIMITED (SAA) / MASIMBA PHILLIP DAHWA

1. We refer to the above matter and confirm for the record that we have been appointed by South African Airways (SOC) Limited ("the employer") to co-ordinate and manage the disciplinary enquiry process which has been established by the employer with the view to consider and deal with certain charges of misconduct preferred against you.

2. According to our instructions, you have advised that you will not be able to attend tomorrow's disciplinary hearing owing to a sick note you obtained from a doctor booking you off from today until on or about 23 March 2016.

Directors – Mbuleli Kolisi LLB (with distinction) (UP), Busiswe Kolisi LLB (UP)
Senior Associates – Litha Makhuni LLB (Fort Hare), William Pule Mocpi LLB (UP)
Associates – Sibusiso Godfrey Lusenga LLB (UJ), Mzamo Sandiso Ntsi LLB (UNIZULU)
Practicing Consultants – Thabiso Mphoke Mashitoa LLB (UL), Neo Motshegare LLB (UP)
Reg No 2011/003465/21
VAT No 4640265262

Postal Address – P O Box 121325, Northmead, 1511
Physical Address – 59 Ernston Avenue, Benoni 1500 / Cor Von Brandis Str & Albertina Sisulu Rd, Johannesburg 2001
Tel – (benoni) 011 420 1922/(jhb) 011 333 2265 Email – (benoni) admin@bmkinc.co.za/ (jhb) adminjhb@bmkinc.co.za
Fax – (benoni) 086 693 1779 / (jhb) 086 228 0955
www.bmkinc.co.za

BM KOLISI INC. ATTORNEYS

BMK ATTORNEYS

3. It is recorded that at the beginning of yesterday's proceedings, the first day of the hearing, you informed the chairperson that you had sought legal representation and that your attorneys had indicated that they needed twenty days to prepare. As such, you seemed to suggest that you would suffer some prejudice if you were to proceed without their assistance.

4. The chairperson then took the trouble to explain to you what the process entailed and to assure you that you would be given as fair as hearing as possible. He made the point to assure you, also, that being unrepresented, he had an even greater duty to assist you in the conduct of your case.

5. In the end, the chairperson asked you whether you had consulted your lawyers and the means by which their need for the twenty days had been conveyed to you. You responded that it was by means of an email which was on your phone. He then asked you to provide him with a copy of the email but that never happened.

6. The purpose of this was to understand why your lawyers had not put themselves on record as your representatives in the proceedings.

7. A while later, the chairperson asked you again for the email and you indicated, pointing to your phone and laptop, that it was somewhere in one of your devices. Still you did not produce the email.

8. When the time came for us to take a lunch break, you insisted that we work through lunch. After a short discussion your request was accommodated by means of an agreement that we take a shorter lunch break instead. And so we did.

9. At the end of the day's proceedings yesterday afternoon you complained that the proceedings had "gone on and on". The chairperson asked you what you meant by that and pointed out to you that the only thing you could complain of is that we had started later than the time we had agreed upon. You asked him to ensure that the parties would

BMK ATTORNEYS

be on time when we reconvened on Friday. The chairperson gave you the assurance that he would ensure a timeous start.

10. Finally, you mentioned that you were flying daily between Johannesburg and Harare and that the non-sitting of the hearing today was, as we understood you, an inconvenience to you. The prosecutor suggested that you discuss that difficulty with your employer.

11. Today you have come with a sick note and probably envisage that there will be a postponement. We regret to tell you, rather, remind you, that the employer has secured witnesses for tomorrow and that the matter is scheduled to proceed. If, however, you should elect not to appear, our instructions are to seek that the matter proceeds in your absence.

12. In line with the Labour Relation Act, 66 of 1995 (LRA), the employer wants to have a speedy resolution of this matter and trusts that you, likewise, share this sentiment and will do your best to co-operate for your benefit as well. You had previously asked that the matter be postponed from on 7 and 8 March 2016, and your request was granted at some cost to the employer, despite the employer's readiness to proceed at that stage. This cannot be repeated.

13. We trust that you will find the above in order.

Yours faithfully

B M KOLISI INC. ATTORNEYS

AS PER: MR M KOLISI

[Sent electronically without signature]

COMMISSION OF INQUIRY
INTO STATE CAPTURE

LE3

Lourens Erasmus (Employee Relations)

From: Dr Masimba, Phillip Dahwa <masidahwa@yahoo.co.uk>
Sent: Wednesday, 30 March 2016 13:24
To: Phumeza Nhantsi
Cc: Thuli Mpshe; Catherine Mofokeng; Lourens Erasmus (Employee Relations); Masimba Dahwa
Subject: Tempering With Employee Bundle of Documents

Dear Phumeza

1. As per your instruction stipulated in the Notification to Attend a Disciplinary Hearing, the exchanging of any bundle of documents which the parties wished to use and rely on during the disciplinary hearing was to be done no later than close of business on 9 March 2016.

2. The exchanging of bundle of documents took place on 9 March 2016 around 1445hrs.

3. On the first day of the hearing, 16 March 2016, I was issued with a new bundle of my evidence which the company and the Presiding Officer insisted that it replace the original bundle which I had initially submitted.

4. I did not agree with the decision seeing that the bundle of documents could have been tempered with and especially that no adequate time was allowed to me to verify that all my evidence was still in the new bundle.

5. Therefore now having had a chance to review the new bundle of my evidence issued by the employer on the hearing day, it is apparent that the original bundle of evidence was heavily tempered with and over 30 documents pulled out.

6. It comes to me as a surprise as to why the following documents which are part of my original bundle of evidence were excluded from the new bundle issued by the employer at the hearing meeting.

7. Below is a list of some of the documents excluded from the new employee bundle of documents issued by the employer:

7.1 Email exchange between Ntombi Nzeocha and Reinette Slabbert advising Ntombi that the the CFST established for the ORTIA Cargo Modernisation Project was non-compliant and a violation of the SAA tender process.

7.2 Ms Thuli Mpshe's email dated 2 Dec 2015 addressed to Josua du Plessis etc al regarding the provisional feed back from National Treasury regarding the Shareholder Compact submissions.

7.3 Ms Avril Halstead's email dated 1 December 2015 to Josua du Plessis providing a summary of NT assessment of the reports that were submitted by SAA.

7.4 The National Treasury table of reports submitted and those not submitted

7.5 Josua du Plessis email dated 19 October 2016 to CPO advising that he also had issues regarding the Shareholder Compact he wanted clarity on from NT and that Ms Avril Halstead from NT had accepted to convene a meeting to discuss the issues.

7.6 CPO email dated 19 October 2015 to Josua du Plessis cc Wolf Meyer et al explains challenges encountered with the Shareholder Compact Shared Services KPI

7.7 CPO email dated 16 October 2015 to Clive Manby cc Josua du Plessis, Wolf Meyer et al responding to questions raised re the NT report submission

LE

7.8 SAA Board of Directors resolution approving changes to SAA Procurement Governance Structure in line with the LTTS and 90 day action plan task

7.9 CPO Board Submission dated 13 /03/2015 requesting for approval of changes to strengthen the current SAA Procurement Governance.

7.10 Templates dated March 2015 for the proposed 3 tier Procurement Governance Structure recommended to SAA Board including a template for Procurement Project Plan

7.11 CPO's Internal Customer Satisfaction Surveys issued by seven SAA executives regarding the CPO's performance reviews

7.12 Letter from CFO Mr Wolf Meyer to GM HR recommending contract extension and a salary review for the CPO

7.13 Nico Bezuidenhout dated 4 May 2015 to Thapelo Lehasa et al regarding the latest position with the Transformation Strategy document

7.14 Ms Kwinana email dated 22 July 2015 to a Non Executive Board Member Mr Tony Dixon regarding queries he raised with the appointment of Forensic Investigators with reference to appointment of EY

7.15 Non Executive Board Member Mr Tony Dixon email dated 22 July 2015 querying how the budget for the appointment of forensic investigators moved from R7 million to R1.2 million giving comparison between SNG and EY

7.16 Non Executive Board Member Mr Tony Dixon dated 22 July 2015 addressed to all Board Members raising concerns regarding the appointment of forensic investigators

7.17 Ms Kwinana's email dated 24/06/2015 to CAO instructing him to ask the CPO to speed up the appointment of forensic investigators the same way he did with appointment of ENS

7.18 CPO email to CFO and ACEO dated 04/06/2015 regarding Aviation and General Security Services awarded to Rishabile tender cancellation by the Board.

7.19 Ms Kwinana's email dated 8 September 2015 to CPO and SAA Board Chairperson advising that she had been requested by the Chairperson to facilitate the award of the 15% (part of Engen) Jet Fuel to all BEE companies in SAA database at a meeting to be held in Durban on Thursday 10 September 2015

7.20 Latest approved GSM organisational structure and reporting lines for the CPO

The above list of documents removed from my original bundle of documents is a cause of concern to me and brings to question the integrity of those responsible for ensuring that the principles of natural justice are applied in the exercise of discipline. Furthermore, this has created a platform for an unfair hearing, as an addition to the many other factors that have resulted in unfairness in this whole process.

The conduct exhibited by the company and its representatives clearly demonstrates continued attempt to deny me a fair and proper hearing in line with the airline's Code and Procedure and the South African Labour law. The disciplinary procedures followed have been marred with violations to SAA HR policies to date and the credibility of such a process therefore is questionable.

I would therefore request a valid reason as to why my evidence, which was legitimately exchanged with the company's representatives was tempered with by removing it from my bundle of evidence; that is if the issue of the loss of credibility is arguable.

Regards

Masimba Philips Dahwa

Lourens Erasmus (Employee Relations)

From: Dr Masimba, Phillip Dahwa <masidahwa@yahoo.co.uk>
Sent: Wednesday, 06 April 2016 07:49
To: Phumeza Nhantsi
Cc: Thuli Mpshe; Catherine Mofokeng; Lourens Erasmus (Employee Relations); Dr. Masimba Dahw
Subject: Re: Tempering With Employee Bundle of Documents

Dear Phumeza

My email dated 30 March 2016 refers.

Please note that I still have not received a response to my above email and subject. As raised with you, I am seriously concerned about this development and I would greatly appreciate if you can provide me with a response.

Regards

Masimba Phillip Dahwa

COMMISSION OF INQUIRY INTO STATE CAPTURE

COMMISSION OF INQUIRY
INTO STATE CAPTURE

Lourens Erasmus (Employee Relations)

From: Phumeza Nhantsi
Sent: Thursday, 07 April 2016 12:51
To: masidahwa@gmail.com
Cc: Thuli Mpshe; Catherine Mofokeng; Lourens Erasmus (Employee Relations); Dr. Masimba Dahw
Subject: RE: Tempering With Employee Bundle of Documents

Dear Masimba,

Your email below refers.

I had thought that you had taken note of the last correspondence sent to you by the companies attorneys, where you were advised that the hearing will proceed. I have been advised that you never responded to such letter and the hearing proceeded in your absence as noted to you.

The hearing has been concluded and you will be advised shortly of the outcome and any other issue.

Regards

Phumeza Nhantsi | Interim Chief Finance Officer | Finance

Mobile: 060 544 5615 | Phone: +2711-978-1736 | E-Mail: PhumezaNhantsi@flysaa.com
6th Floor, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

From: Dr Masimba, Phillip Dahwa [mailto:masidahwa@yahoo.co.uk]
Sent: 06 April 2016 07:49 AM
To: Phumeza Nhantsi
Cc: Thuli Mpshe; Catherine Mofokeng; Lourens Erasmus (Employee Relations); Dr. Masimba Dahw
Subject: Re: Tempering With Employee Bundle of Documents

Dear Phumeza

My email dated 30 March 2016 refers.

Please note that I still have not received a response to my above email and subject. As raised with you, I am seriously concerned about this development and I would greatly appreciate if you can provide me with a response.

Regards

Masimba Phillip Dahwa

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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.

LE4

Lourens Erasmus (Employee Relations)

From:	Dr. Masimba Dahw <mpdahwa@yahoo.co.uk>
Sent:	Friday, 08 April 2016 09:25
To:	Phumeza Nhantsi; masidahwa@gmail.com
Cc:	Thuli Mpshe; Catherine Mofokeng; Lourens Erasmus (Employee Relations); Phillip Dahwa Dr Masimba
Subject:	RE: Tempering With Employee Bundle of Documents

Dear Phumeza

Whether a decision was made or not my question regarding your deliberate tempering with my bundle of evidence remain unanswered and I reserve my right to raise this at the appropriate forum.

Apparently you deny receipt of any communications for reasons best known to you. Again I reserve my right to have these unfair labour practices dealt with at the appropriate forum.

Regards

Masimba Phillip Dahwa

Sent from Yahoo Mail on Android

On Thu, 7 Apr, 2016 at 12:51, Phumeza Nhantsi <PhumezaNhantsi@flysaa.com> wrote:

Dear Masimba,

Your email below refers.

I had thought that you had taken note of the last correspondence sent to you by the companies attorneys, where you were advised that the hearing will proceed. I have been advised that you never responded to such letter and the hearing proceeded in your absence as noted to you.

The hearing has been concluded and you will be advised shortly of the outcome and any other issue.

Regards

Phumeza Nhantsi | Interim Chief Finance Officer | Finance

Mobile: 060 544 5615 | Phone: +2711-978-1736 | E-Mail: PhumezaNhantsi@flysaa.com

6th Floor, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

From: Dr Masimba, Phillip Dahwa [mailto:masidahwa@yahoo.co.uk]
Sent: 06 April 2016 07:49 AM
To: Phumeza Nhantsi
Cc: Thuli Mpshe; Catherine Mofokeng; Lourens Erasmus (Employee Relations); Dr. Masimba Dahw
Subject: Re: Tempering With Employee Bundle of Documents

Dear Phumeza

My email dated 30 March 2016 refers.

Please note that I still have not received a response to my above email and subject. As raised with you, I am seriously concerned about this development and I would greatly appreciate if you can provide me with a response.

Regards

Masimba Phillip Dahwa

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Directors

DC Myeni* (Chairperson) T 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 ME

COMMISSION OF INQUIRY INTO STATE CAPTURE

COMMISSION OF INQUIRY
INTO STATE CAPTURE

LES

Lourens Erasmus (Employee Relations)

From: Phumeza Nhantsi
Sent: Tuesday, 05 April 2016 15:55
To: Lourens Erasmus (Employee Relations); Thuli Mpshe
Cc: Musa Zwane
Subject: RE: Discussion:Dr Dahwa

Good day Lourens

The process has been concluded and today I received a ruling from the Chairperson of the hearing. If there are any issues/complaints about the process (substantive or procedural) which the employee wishes to take up, I am advised by our external lawyers that Masimba can exercise his rights at an appropriate forum.

Regards,

Phumeza Nhantsi | Interim Chief Finance Officer | Finance

Mobile: 060 544 5615 | Phone: +2711-978-1736 | E-Mail: PhumezaNhantsi@flysaa.com
6th Floor, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

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From: Lourens Erasmus (Employee Relations)
Sent: 01 April 2016 12:46 PM
To: Phumeza Nhantsi; Thuli Mpshe
Cc: Musa Zwane
Subject: RE: Discussion:Dr Dahwa
Importance: High

Thanks Phumeza
Yes in fact we wanted to discuss this matter with you as the correspondence between you and Dr Dahwa may indicate that SAA may be at risk of procedural and substantive un-fairness relating to the matter. We wanted to discuss this with you in in the interest of SAA. We were not aware that the matter has in fact been completed by the lawyers. May I suggest that you engage Thuli and I before making a ruling.

regards
Lourens Erasmus | HOD: Employee Relations | Employee Relations - Human Resources

Phone: +2711-978-3365 | E-Mail: LourensE@flysaa.com
Room 135, 1st Floor, Block E, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

From: Phumeza Nhantsi
Sent: 01 April 2016 12:36 PM
To: Thuli Mpshe; Lourens Erasmus (Employee Relations)
Subject: Discussion:Dr Dahwa

Good day

Hope you are well

I have heard that you wanted to have an urgent meeting with me today regarding Dr Dahwa unfortunately I couldn't come to the office as I am not feeling well and apologies for that

16

But regarding the issue of Dr Dahwa I would not want to discuss anything right now as the Disciplinary Hearing has been completed by the Lawyers and I am waiting for the Lawyers to finalise and provide me with the ruling. That's if in this meeting you wanted to know the update on his case.

Regards

Phumeza Nhantsi | Interim Chief Finance Officer | Finance

Mobile: 060 544 5615 | Phone: +2711-978-1736 | E-Mail: PhumezaNhantsi@flysaa.com
6th Floor, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

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LE 6

Lourens Erasmus (Employee Relations)

From: Khanyisile Khanyile
Sent: Thursday, 07 April 2016 13:18
To: Lourens Erasmus (Employee Relations)
Cc: Robert Malunga; Lara Boardman
Subject: Legal exposure on Dr Dahwa

Dear Lourens

As per our discussion please find below our exposure in the event that Dr Dahwa is presented with the finding and the recommendation is carried out.

Given that this matter is riddled with procedural and substantive defects the outcome of the hearing should not be handed to Dr Dahwa at all. This is because whether or not the outcome finds the employee guilty or not guilty, the proceedings should never have proceeded in his absence and thus the outcome is inherently flawed.

The suspension also needs to be lifted urgently or we face a referral for unfair suspension. This is because our disciplinary code allows for an employee to be suspended *"pending the outcome of an investigation and/ or pending the outcome of a disciplinary hearing"*. The investigation has been completed as that would have been the basis of charging the employee and proceeding with the hearing. The disciplinary process has to be seen as completed because given its defects, we cannot proceed with giving Dr Dahwa the outcome when he was not given an opportunity to represent himself. Therefore, keeping him on suspension is unfair in terms of the Act and we could be exposed to a referral for unfair suspension if it continues.

In the event that the business unit does not agree or follow the aforementioned approach and dismisses Dr Dahwa the exposure is as follows:

In terms of the Labour Relations Act ("LRA") we are exposed to a claim for unfair dismissal. Given both the procedural and substantive fairness issues we would not likely be successful in defending a case brought by Dr Dahwa. As such we would be exposed to the maximum compensation of 12 months in the event that Dr Dahwa requests compensation.

In the event that Dr Dahwa requests reinstatement we would have to reinstate him and be liable for full back pay from when he was dismissed.

Given that Dr Dahwa is on a fixed term contract we would also be exposed to a civil claim **in addition to the exposure in terms of the LRA**. From a contractual perspective Dr Dahwa can claim that his fixed term contract was unfairly terminated and the damages that would be due to him would be the remainder of his contract as well as any renewal that was legitimately expected.

If there has been any reputational harm to Dr Dahwa, he can equally claim that under a civil claim.

The above scenarios should also cater for the legal costs that we would be liable for, both ours and Dr Dahwa's given that he would most likely be successful.

As such, we cannot recommend that the business unit issues the ruling to Dr Dahwa.

Kind regards

Khanyisile Khanyile | Employee Relations Specialist | Employee Relations

Phone: +2711-978-1163 | Fax: +2711-978-5645 | E-Mail: KhanyisileKhanyile@flysaa.com
Room 134,1st Floor,Block E,Airways Park- Johannesburg- South Africa

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LE7

Lourens Erasmus (Employee Relations)

From: Lourens Erasmus (Employee Relations)
Sent: Thursday, 07 April 2016 16:18
To: Catherine Mofokeng
Cc: Musa Zwane; Phumeza Nhantsi; Thuli Mpshe; Thembi Mngomezulu
Subject: RE: Urgent Advise needed
Attachments: FW: Re: Dr Dahwa

Dear Catherine

I respond to you based on the information I have available.

1. We know a ruling was made this week (although we are not aware of the contents thereof).
2. We know the presiding officer was not an employee of SAA.
3. If the ruling is that Dr Dahwa (the accused) is guilty of the charges laid against him, it seems that the following procedural flaws may expose SAA to risk:
    a. We know the disciplinary officer was not an employee of SAA, which is a requirement in terms of the disciplinary code for managers in SAA.
    b. It is clear that no representatives employed by SAA were present during the formal disciplinary hearings and that the CFO (the accused's direct Line Manager) was a witness in the hearing herself.
    c. It is clear HR was not present or invited to be present during the formal disciplinary hearings as required in terms of the disciplinary code for managers.
    d. The hearing continued despite a valid sick note from the accused (This presumption is drawn from the fact that there was no challenge as to the authenticity of the sick note upon submission thereof) .
    e. It seems that the accused did not have the opportunity to cross examine witnesses testifying/ evidence called or introduced by SAA against him (as he was not present due to illness).
    f. It seems the accused did not have the opportunity to call his own witnesses or re-examine his own witnesses (as he was not present due to illness).
    g. If found guilty, the accused was not informed of the verdict decision by the presiding officer, as required in terms of the disciplinary code for managers.
    h. And if so, it seems the accused did not, following a "guilty" verdict decision, have the opportunity to present circumstances in mitigation of sanction as required in terms of the disciplinary code for managers.
    i. I have been advised that there are allegations by the accused that his bundle of evidence has been tampered with after he had submitted it.
4. It seems the following substantive flaws may expose SAA to risk:
    a. Due to the procedural flaws outlined in a. to i. above it is impossible for a presiding officer to properly and fairly reach a verdict and consider an appropriate recommendation/ sanction.
    b. It seems the process leading to a finding against the accused is made on the strength of evidence from one party only – the "audi alterim partem" rule has not been applied.
    c. Any sanction may be substantively unfair as the accused's rights to a fair hearing were denied.
5. Risks of proceeding with a sanction short of dismissal
    a. The accused may submit an appeal against the sanction. The appeal authority will be the CEO who will have to review the case and make a decision as to whether the hearing outcome is to be upheld or not. If not upheld the accused may still refer a dispute to the CCMA to adjudicate.
6. Risks of proceeding with a sanction of dismissal
    In the event that the CFO does not agree with the recommendations or follow the approach in 7 below and the accused is dismissed, the exposure to SAA is as follows:
    a. In terms of the Labour Relations Act ("LRA") SAA is exposed to a claim for unfair dismissal. Given both the procedural and substantive fairness issues SAA would not likely be successful in defending a case brought by the accused. As such SAA would be exposed to the maximum compensation of 12 months in the event that the accused requests compensation.

LE7

b. In the event that the accused requests reinstatement, SAA would have to reinstate him and be liable for full back pay from when he was dismissed.
c. Given that the accused is on a fixed term contract we would also be exposed to a civil claim in addition to the exposure in terms of the LRA. From a contractual perspective the accused can claim that his fixed term contract was unfairly terminated and the damages that would be due to him would be the remainder of his contract as well as any renewal that was legitimately expected.
d. If there has been any reputational harm to the accused, he can equally claim *that* under a civil claim.
e. The above scenarios should also cater for the legal costs that we would be liable for, both ours and the accused's given that he would most likely be successful.

7. Recommendations
   a. Given that this matter seems to be riddled with procedural and substantive defects the outcome of the hearing should not be handed to the accused at all. This is because whether or not the outcome finds the employee guilty or not guilty, the proceedings should never have proceeded in his absence and thus the outcome is inherently flawed.
   b. The suspension also needs to be lifted urgently or we face a dispute referral for unfair suspension.
      i. This is because SAA's disciplinary code for managers allows for an employee to be suspended "pending the outcome of an investigation and/ or pending the outcome of a disciplinary hearing".
      ii. The investigation has been completed as that would have been the basis of charging the employee and proceeding with the hearing.
      iii. The disciplinary process has to be seen as completed because given its defects, we cannot proceed with giving the accused the outcome when he was not given an opportunity to represent himself.
      iv. Therefore, keeping him on suspension is unfair in terms of the Labour Relations Act and we could also be exposed to a referral for unfair suspension if it continues.
   c. Based on all of the above, we cannot recommend that the Company issues the ruling to the accused.

regards
Lourens Erasmus | HOD: Employee Relations | Employee Relations - Human Resources

Phone: +2711-978-3365 | E-Mail: LourensE@flysaa.com
Room 135, 1st Floor, Block E, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

From: Catherine Mofokeng
Sent: 07 April 2016 10:27 AM
To: Lourens Erasmus (Employee Relations)
Cc: Phumeza Nhantsi; Thembi Mngomezulu
Subject: Urgent Advise needed

Hi Lourens

I understand you are sitting in the bargaining council for the day however I need urgent advise for my customer Phumeza.

Yesterday I had a meeting with Phumeza who advised me that the disciplinary process for Masimba Dahwa has been concluded and she has the outcome and wants to know the process going forward. In order for me to be able to give the correct advise, I asked the following questions:

1. Who from HR was sitting in the hearing? – None (I would have advised that the person needs to handle the process)
2. Who was representing the company? – None (I would have advised on what that the person needs to do)
3. With question 1 & 2 being none, I then asked Phumeza if she was sitting in and she mentioned that she came in as a witness. I raised my concern that she shouldn't have the outcome if she was the witness.
4. I then asked who did the hearing and she advised that it was outside people as they had informed Masimba to also get his lawyer and yes no one from SAA was involved.

With all the above being said, I informed Phumeza that there are procedural defects in this hearing and she acknowledged that you had raised that concern as well but she was advised that if Masimba feels that way he will have to take it up outside.

Lourens, all what Phumeza needs is to give the ruling/outcome of the hearing to Masimba and the process to follow. Please advise what is the next step because I had informed her that I have to escalate to you after ascertaining the facts above.

Your urgent assistance will be highly appreciated.

Kind regards

Catherine Mofokeng | HR Business Partner | Human Resource

Phone: +2711-978-6322 | E-Mail: CatherineMofokeng@flysaa.com
Room 103, Floor 1, Block c, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

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Lourens Erasmus (Employee Relations)

From: Lourens Erasmus (Employee Relations)
Sent: Monday, 11 April 2016 14:41
To: Phumeza Nhantsi; Catherine Mofokeng
Cc: Musa Zwane; Thuli Mpshe; Thembi Mngomezulu
Subject: FW: Urgent Advise needed
Attachments: FW: Re: Dr Dahwa

Dear Phumeza and Catherine
On Thursday the 7th April I submitted my advice on this matter. To date I have not been afforded a response to this. Please advise whether you have considered my advice below.

regards
Lourens Erasmus | HOD: Employee Relations | Employee Relations - Human Resources

Phone: +2711-978-3365 | E-Mail: LourensE@flysaa.com
Room 135, 1st Floor, Block E, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

From: Lourens Erasmus (Employee Relations)
Sent: 07 April 2016 04:18 PM
To: Catherine Mofokeng
Cc: Musa Zwane; Phumeza Nhantsi; Thuli Mpshe; Thembi Mngomezulu
Subject: RE: Urgent Advise needed

Dear Catherine

I respond to you based on the information I have available.

1. We know a ruling was made this week (although we are not aware of the contents thereof).
2. We know the presiding officer was not an employee of SAA.
3. If the ruling is that Dr Dahwa (the accused) is guilty of the charges laid against him, it seems that the following procedural flaws may expose SAA to risk:
    a. We know the disciplinary officer was not an employee of SAA, which is a requirement in terms of the disciplinary code for managers in SAA.
    b. It is clear that no representatives employed by SAA were present during the formal disciplinary hearings and that the CFO (the accused's direct Line Manager) was a witness in the hearing herself.
    c. It is clear HR was not present or invited to be present during the formal disciplinary hearings as required in terms of the disciplinary code for managers.
    d. The hearing continued despite a valid sick note from the accused (This presumption is drawn from the fact that there was no challenge as to the authenticity of the sick note upon submission thereof) .
    e. It seems that the accused did not have the opportunity to cross examine witnesses testifying/ evidence called or introduced by SAA against him (as he was not present due to illness).
    f. It seems the accused did not have the opportunity to call his own witnesses or re-examine his own witnesses (as he was not present due to illness).
    g. If found guilty, the accused was not informed of the verdict decision by the presiding officer, as required in terms of the disciplinary code for managers.
    h. And if so, It seems the accused did not, following a "guilty" verdict decision, have the opportunity to present circumstances in mitigation of sanction as required in terms of the disciplinary code for managers.
    i. I have been advised that there are allegations by the accused that his bundle of evidence has been tampered with after he had submitted it.
4. It seems the following substantive flaws may expose SAA to risk:

a. Due to the procedural flaws outlined in a. to i. above it is impossible for a presiding officer to properly and fairly reach a verdict and consider an appropriate recommendation/ sanction.
b. It seems the process leading to a finding against the accused is made on the strength of evidence from one party only – the "audi alterim partem" rule has not been applied.
c. Any sanction may be substantively unfair as the accused's rights to a fair hearing were denied.

5. Risks of proceeding with a sanction short of dismissal
   a. The accused may submit an appeal against the sanction. The appeal authority will be the CEO who will have to review the case and make a decision as to whether the hearing outcome is to be upheld or not. If not upheld the accused may still refer a dispute to the CCMA to adjudicate.
6. Risks of proceeding with a sanction of dismissal
   In the event that the CFO does not agree with the recommendations or follow the approach in 7 below and the accused is dismissed, the exposure to SAA is as follows:
   a. In terms of the Labour Relations Act ("LRA") SAA is exposed to a claim for unfair dismissal. Given both the procedural and substantive fairness issues SAA would not likely be successful in defending a case brought by the accused. As such SAA would be exposed to the maximum compensation of 12 months in the event that the accused requests compensation.
   b. In the event that the accused requests reinstatement, SAA would have to reinstate him and be liable for full back pay from when he was dismissed.
   c. Given that the accused is on a fixed term contract we would also be exposed to a civil claim in addition to the exposure in terms of the LRA. From a contractual perspective the accused can claim that his fixed term contract was unfairly terminated and the damages that would be due to him would be the remainder of his contract as well as any renewal that was legitimately expected.
   d. If there has been any reputational harm to the accused, he can equally claim *that* under a civil claim.
   e. The above scenarios should also cater for the legal costs that we would be liable for, both ours and the accused's given that he would most likely be successful.
7. Recommendations
   a. Given that this matter seems to be riddled with procedural and substantive defects the outcome of the hearing should not be handed to the accused at all. This is because whether or not the outcome finds the employee guilty or not guilty, the proceedings should never have proceeded in his absence and thus the outcome is inherently flawed.
   b. The suspension also needs to be lifted urgently or we face a dispute referral for unfair suspension.
      i. This is because SAA's disciplinary code for managers allows for an employee to be suspended "pending the outcome of an investigation and/ or pending the outcome of a disciplinary hearing".
      ii. The investigation has been completed as that would have been the basis of charging the employee and proceeding with the hearing.
      iii. The disciplinary process has to be seen as completed because given its defects, we cannot proceed with giving the accused the outcome when he was not given an opportunity to represent himself.
      iv. Therefore, keeping him on suspension is unfair in terms of the Labour Relations Act and we could also be exposed to a referral for unfair suspension if it continues.
   c. Based on all of the above, we cannot recommend that the Company issues the ruling to the accused.

regards

Lourens Erasmus | HOD: Employee Relations | Employee Relations - Human Resources

Phone: +2711-978-3365 | E-Mail: LourensE@flysaa.com
Room 135, 1st Floor, Block E, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

From: Catherine Mofokeng
Sent: 07 April 2016 10:27 AM
To: Lourens Erasmus (Employee Relations)
Cc: Phumeza Nhantsi; Thembi Mngomezulu
Subject: Urgent Advise needed

Hi Lourens

I understand you are sitting in the bargaining council for the day however I need urgent advise for my customer Phumeza.

Yesterday I had a meeting with Phumeza who advised me that the disciplinary process for Masimba Dahwa has been concluded and she has the outcome and wants to know the process going forward. In order for me to be able to give the correct advise, I asked the following questions:

1. Who from HR was sitting in the hearing? – None (I would have advised that the person needs to handle the process)
2. Who was representing the company? – None (I would have advised on what that the person needs to do)
3. With question 1 & 2 being none, I then asked Phumeza if she was sitting in and she mentioned that she came in as a witness. I raised my concern that she shouldn't have the outcome if she was the witness.
4. I then asked who did the hearing and she advised that it was outside people as they had informed Masimba to also get his lawyer and yes no one from SAA was involved.

With all the above being said, I informed Phumeza that there are procedural defects in this hearing and she acknowledged that you had raised that concern as well but she was advised that if Masimba feels that way he will have to take it up outside.

Lourens, all what Phumeza needs is to give the ruling/outcome of the hearing to Masimba and the process to follow. Please advise what is the next step because I had informed her that I have to escalate to you after ascertaining the facts above.

Your urgent assistance will be highly appreciated.

Kind regards

Catherine Mofokeng | HR Business Partner | Human Resource

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COMMISSION OF INQUIRY
INTO STATE CAPTURE

Lourens Erasmus (Employee Relations)

From: Phumeza Nhantsi
Sent: Friday, 15 April 2016 12:27
To: Lourens Erasmus (Employee Relations); Thuli Mpshe
Cc: Musa Zwane; Catherine Mofokeng; Thembi Mngomezulu
Subject: RE: Urgent Advise needed

Hi Lourens

Thank you, I will take it up with Thuli.

Regards

Phumeza Nhantsi | Interim Chief Finance Officer | Finance

Mobile: 060 544 5615 | Phone: +2711-978-1736 | E-Mail: PhumezaNhantsi@flysaa.com
6th Floor, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

From: Lourens Erasmus (Employee Relations)
Sent: 14 April 2016 01:26 PM
To: Thuli Mpshe; Phumeza Nhantsi
Cc: Musa Zwane; Catherine Mofokeng; Thembi Mngomezulu
Subject: RE: Urgent Advise needed
Importance: High

Dear Thuli and Phumeza
I note the lawyers draft response in red to my e-mail below. My viewpoint remains that this process was procedurally and substantively flawed and may expose SAA to risk.

1. According to my information, the Interim CFO proceeded with this matter from the start without consulting and involving HR. I was certainly not consulted on the matter and I am advised that neither was the HRBP department. HR was drawn in only on certain occasions where Dr Dahwa was called in by the ICFO to witness such meetings.
2. As HR was not involved from the outset in this case (as per normal procedure and practice), HR was not even invited to attend these proceedings, it did not attend accordingly.
3. On the matter of the sick note, my advice to the ICFO on the 18th March was that:
   " 1. All employees have the right to sick leave as provided for in the Basic Conditions of Employment Act and their contract of employment.
   2. If an employee presents a sick certificate such ***is deemed valid unless there is a question relating to the authenticity of the sick certificate.***
   3. If indeed there is a question mark relating to the authenticity of the certificate, further investigation should be conducted with the assistance of the Medical Services department where they will liaise with the medical practitioner to establish the authenticity thereof."
   The response from the lawyers is "The employee was requested to avail himself for purposes of authentication. **How does the employee present himself for purposes of authentication when he is incapacitated?** Correspondence was also sent to Masimba, where he was advise of the employer' stance in as far as his sick note was concerned and what is expected of him in light of that sick note. **The attached letter from BMK Attorneys does not specify what was required of Dr Dahwa to do in terms of his sick note , nor was the authenticity of the sick note challenge by them. Instead he was advised that should he "elect not to appear" the hearing would proceed without him. His presentation of a sick note was not an election not to appear but a valid explanation of his absence. If this was disputed by the company then an investigation should have been conducted, which investigation would still have required a postponement of the hearing.** He failed to respond to such a correspondence which was very directive that

the hearing will proceed without him." **It is my information that he did in any case respond to this correspondence form BMK Attorneys on the same day which was also the day of the hearing. I fail to understand how the letter from BMK justifies the continuance of the proceedings. It is clear the authenticity of the sick note was not properly challenged and my advice was ignored.**

4. In terms of (i) below, the normal procedure to follow when consolidating bundles is that the parties must agree on the deletions/ inclusions and obviously the final bundle. Clearly this never happened and if that is the case a serious risk to SAA arises.
5. Based on the above my risk assessment and recommendations remain as per the e-mail of 7 April.
6. As a result of the above the procedural and substantive challenges remain as per my advice in the e-mail of 7 April 2016.

Thuli, based on the above it is my view that HR cannot participate in a disciplinary process that it has not been involved in from the start. As you know, you and I tried to intervene and I did provide advice (albeit from an arm's length away) on the 18th March, 7 April and 11 April.

I hereby escalate this matter to you as my superior for urgent attention.

regards
Lourens Erasmus | HOD: Employee Relations | Employee Relations - Human Resources

Phone: +2711-978-3365 | E-Mail: LourensE@flysaa.com
Room 135, 1st Floor, Block E, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

From: Phumeza Nhantsi
Sent: 14 April 2016 09:03 AM
To: Lourens Erasmus (Employee Relations)
Cc: Thuli Mpshe; Catherine Mofokeng; Musa Zwane
Subject: FW: Urgent Advise needed

Hi Lourens

Hope you are well

Below please receive my response to your questions that you have raised. As we have spoken on the phone, I need to finalise this matter and would like you to avail yourself or send a representative.

We know a ruling was made this week (although we are not aware of the contents thereof).

1. We know the presiding officer was not an employee of SAA.
2. If the ruling is that Dr Dahwa (the accused) is guilty of the charges laid against him, it seems that the following procedural flaws may expose SAA to risk:
    a. We know the disciplinary officer was not an employee of SAA, which is a requirement in terms of the disciplinary code for managers in SAA.
    HR/ER (interchangeable) knew or ought to have known this fact and provided guidance at the very early stages. Furthermore, the employee was advised of the DC approach and raised no objection in respect of the appointment of the Chairperson or any other external party. The employee was afforded an opportunity to be represented by either a fellow employee or an external person at the hearing. It is a matter of construction whether the policy prohibits participation of external person at a DC. This point was further dealt with on the first day of the hearing, where the employee sought to delay the hearing because his alleged representative needed over 20 work days to prepare. This is notwithstanding the fact that the said employee representative has never placed himself/herself on record as the employee representative. Further, it is not new at SAA that an external and independent parties are appointed/participate in the DC.
    b. It is clear that no representatives employed by SAA were present during the formal disciplinary hearings and that the CFO (the accused's direct Line Manager) was a witness in the hearing herself.

The employee chose to represent himself. The Acting CFO was a material witness at the enquiry. It is also not new at SAA that a line manager is a witness at or during the hearing. For example, in the more recent matter involving an employee within Risk & Compliance Dept, the line manager testified on behalf of the employer. How is this different from Masimba' matter?

c. It is clear HR was not present or invited to be present during the formal disciplinary hearings as required in terms of the disciplinary code for managers.
HR was aware of the hearing and dates thereof. Notices of hearing were served to the employee in the presence of HR. It can only be deduced that HR chose not to attend for whatever reasons.

d. The hearing continued despite a valid sick note from the accused (This presumption is drawn from the fact that there was no challenge as to the authenticity of the sick note upon submission thereof) .
It cannot be correct to assume that a sick note is valid when it is not authenticated. The employee was requested to avail himself for purposes of authentication. Correspondence was also sent to Masimba, where he was advise of the employer' stance in as far as his sick note was concerned and what is expected of him in light of that sick note. He failed to respond to such a correspondence which was very directive that the hearing will proceed without him.

e. It seems that the accused did not have the opportunity to cross examine witnesses testifying/ evidence called or introduced by SAA against him (as he was not present due to illness).
The employee was given an opportunity to cross examine witnesses. Precisely, he had cross examine the Acting CFO and Mr Luthuli amongst other witnesses.

f. It seems the accused did not have the opportunity to call his own witnesses or re-examine his own witnesses (as he was not present due to illness).
The employee was given the opportunity and decided to stay away from the hearing.

g. If found guilty, the accused was not informed of the verdict decision by the presiding officer, as required in terms of the disciplinary code for managers.
The presiding officer can be arranged if necessary to read the verdict, but the employee decided to stay away from the hearing. But the advice received from ER/HR was that they only need to be present when the verdict is read.

h. And if so, It seems the accused did not, following a "guilty" verdict decision, have the opportunity to present circumstances in mitigation of sanction as required in terms of the disciplinary code for managers.
This could not have been done as the employee decided to stay away from the hearing.

i. I have been advised that there are allegations by the accused that his bundle of evidence has been tampered with after he had submitted it.
There was no tempering with the employee' bundle. But it was the agreement of both the employee and employer to consolidate their bundles. Also, the allegation of tempering with the bundle were never raised by the employee during the hearing.

3. It seems the following substantive flaws may expose SAA to risk:
I have been advised by our external legal advisors that there are no substantive or procedural flaws. If there are any, the employee will have to raise these formally and at an appropriate forum.
   a. Due to the procedural flaws outlined in a. to i. above it is impossible for a presiding officer to properly and fairly reach a verdict and consider an appropriate recommendation/ sanction.
   b. It seems the process leading to a finding against the accused is made on the strength of evidence from one party only – the "audi alterim partem" rule has not been applied.
   c. Any sanction may be substantively unfair as the accused's rights to a fair hearing were denied.
4. Risks of proceeding with a sanction short of dismissal
The employee is well within his right to appeal or review the decision taken.
   a. The accused may submit an appeal against the sanction. The appeal authority will be the CEO who will have to review the case and make a decision as to whether the hearing outcome is to be upheld or not. If not upheld the accused may still refer a dispute to the CCMA to adjudicate.
5. Risks of proceeding with a sanction of dismissal

It is unclear how the employee will be successful in pursuing the matter further. We should refrain from speculating and let the appropriate forums to decide.

In the event that the CFO does not agree with the recommendations or follow the approach in 7 below and the accused is dismissed, the exposure to SAA is as follows:

a. In terms of the Labour Relations Act ("LRA") SAA is exposed to a claim for unfair dismissal. Given both the procedural and substantive fairness issues SAA would not likely be successful in defending a case brought by the accused. As such SAA would be exposed to the maximum compensation of 12 months in the event that the accused requests compensation.
b. In the event that the accused requests reinstatement, SAA would have to reinstate him and be liable for full back pay from when he was dismissed.
c. Given that the accused is on a fixed term contract we would also be exposed to a civil claim in addition to the exposure in terms of the LRA. From a contractual perspective the accused can claim that his fixed term contract was unfairly terminated and the damages that would be due to him would be the remainder of his contract as well as any renewal that was legitimately expected.
d. If there has been any reputational harm to the accused, he can equally claim *that* under a civil claim.
e. The above scenarios should also cater for the legal costs that we would be liable for, both ours and the accused's given that he would most likely be successful.

6. Recommendations

These recommendations are not supported. The employee must receive the outcome of the DC, as any further delay may prejudice the company.

a. Given that this matter seems to be riddled with procedural and substantive defects the outcome of the hearing should not be handed to the accused at all. This is because whether or not the outcome finds the employee guilty or not guilty, the proceedings should never have proceeded in his absence and thus the outcome is inherently flawed.
b. The suspension also needs to be lifted urgently or we face a dispute referral for unfair suspension.
    i. This is because SAA's disciplinary code for managers allows for an employee to be suspended "pending the outcome of an investigation and/ or pending the outcome of a disciplinary hearing".
    ii. The investigation has been completed as that would have been the basis of charging the employee and proceeding with the hearing.
    iii. The disciplinary process has to be seen as completed because given its defects, we cannot proceed with giving the accused the outcome when he was not given an opportunity to represent himself.
    iv. Therefore, keeping him on suspension is unfair in terms of the Labour Relations Act and we could also be exposed to a referral for unfair suspension if it continues.
c. Based on all of the above, we cannot recommend that the Company issues the ruling to the accused.

regards
Lourens Erasmus | HOD: Employee Relations | Employee Relations - Human Resources

Phone: +2711-978-3365 | E-Mail: LourensE@flysaa.com
Room 135, 1st Floor, Block E, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

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LE10

Lourens Erasmus (Employee Relations)

From: Thuli Mpshe
Sent: Friday, 22 April 2016 10:28
To: Lourens Erasmus (Employee Relations); Phumeza Nhantsi
Subject: RE: Meeting with lawyers - Lourens

Dear Lourens
Thank you for the feedback.
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: Lourens Erasmus (Employee Relations)
Sent: 22 April 2016 09:14 AM
To: Thuli Mpshe; Phumeza Nhantsi
Subject: RE: Meeting with lawyers - Lourens

Dear Thuli
Please note Mbuleli's note to Phumeza. We maintain our viewpoint unreservedly on this matter. Numerous of our concerns were not adequately addressed. The only aspect we had consensus on in the meeting yesterday was that ER should have a comprehensive understanding of what transpired and what evidence and rulings were made in terms of said evidence, information and facts as it is ER who would have to deal with any disputes at the CCMA regarding this matter (in the event that a sanction of dismissal is executed).

Due to the fact that ER/ HR was not involved with this case it is not proper for us to be involved in the process at this late stage, especially in the light of our concerns as articulated in writing and in meetings.

regards
Lourens Erasmus | HOD: Employee Relations | Employee Relations - Human Resources

Phone: +2711-978-3365 | E-Mail: LourensE@flysaa.com
Room 135, 1st Floor, Block E, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

From: Mbuleli Kolisi [mailto:mbuleli@bmkinc.co.za]
Sent: 22 April 2016 05:13 AM
To: Phumeza Nhantsi
Cc: Lourens Erasmus (Employee Relations)
Subject: RE: Meeting with lawyers - Lourens

Dear Mrs. Nhantsi,

The disciplinary hearing of Dr MP Dahwa and subsequent enquiries made by the Employee Relations Department (ER) bear reference. Most importantly, the meeting of yesterday, 21 April 2016, between the writer hereof, Mr Lourens Erasmus ("Lourens")and Khanyisile has further reference.

At the aforesaid meeting, the writer had an opportunity, for the first time, to consider what was referred to as "concerns" by the ER about certain issues that pertain to the manner in which the disciplinary hearing and other

related processes were handled. For all intents and purposes, the less said about what those "concerns" are and what actually transpired at the aforesaid meeting, the better.

Suffice it to say that towards the end of the meeting, based on what had transpired and in the light of the nature of questions raised by both Lourens and Khanyisile, it was resolved that it would take more than that particular meeting to fully brief the ER team on the entire matter and, to the extent that they (ER team) would like to gain clarity on certain issues, then a formal meeting for such an engagement process would have to be arranged and, if such a process was to be approved by the Employer, it would certainly not take less than a day to assist the ER to get relevant information about and gain better understanding of the matter.

As things presently stand, and due to very limited information (or lack thereof) that the ER has about the matter, it would not be appropriate at this stage for the ER to make any allegations or conclusions about fairness or otherwise of the entire process, as they have not yet, according to our view, taken adequate and reasonable measures and steps to familiarise themselves with most of the pertinent issues, including what would have informed certain decisions that were taken as well as the manner in which each of the parties conducted themselves prior to and during the disciplinary proceedings.

Accordingly, the concerns or questions raised by the ER yesterday could not be adequately, properly and satisfactorily addressed due to the manner in which the meeting was structured and how the entire meeting/process was approached by the attendees at that particular meeting. In terms of the correct understanding of fundamental issues regarding how the entire process was co-ordinated, handled and managed, the ER and the professionals (especially BMK) who assisted with the management of the matter are poles apart, and therefore, it remains the prerogative of the Employer to take final decision on how the matter should be finally resolved, and most importantly, how the disciplinary outcome is to be handled.

Most pertinently, we note that the Chairperson of the disciplinary hearing is scheduled to come in at SAA today to communicate/deliver the outcome of the disciplinary hearing. Our understanding is that HR and ER are not willing to be part of today's process until and unless full reasons are given to them as to why and how the process had to unfold in the matter in which it did, and why certain decisions were taken without their inputs, involvement and guidance- so it goes their contention.

We find the decision by the Employer to invite the Chairperson to come and deliver the ruling of the hearing quite unusual, as the norm would generally be that the outcome would be communicated by the Employer directly to the Employee. However, the reasons for this unusual request (that is to say that the Chairperson should be the one who physically communicates/delivers the outcome) are now apparent, as the ER and HR contend that they do not want to be part of this process at this advanced stage. In this regard, we are not in a position to get involved in the internal processes of SAA/Employer, and thus, we strictly reserve our comments and views about this untenable and unprecedented state of affairs.

We shall await further instructions from you regarding any further processes that should ensue henceforth.

Kind regards
Mbuleli

Mbuleli Kolisi
Director
BMK ATTORNEYS
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From: Phumeza Nhantsi [mailto:PhumezaNhantsi@flysaa.com]
Sent: Tuesday, April 19, 2016 11:40 AM
To: Hester Du Toit

Cc: Carol Chinjeke; Mbuleli Kolisi (mbuleli@bmkinc.co.za); Lourens Erasmus (Employee Relations)
Subject: RE: Meeting with lawyers - Lourens

Hi Hester

Thank you for the feedback, could you please set up a meeting then for tomorrow at 17:15 with Lourens, myself and Mbuleli and his email address is Mbuleli@bmkinc.co.za. I have also copied him on the email

Thank you

Phumeza Nhantsi | Interim Chief Finance Officer | Finance

Mobile: 060 544 5615 | Phone: +2711-978-1736 | E-Mail: PhumezaNhantsi@flysaa.com
6th Floor, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

---

From: Hester Du Toit
Sent: 19 April 2016 08:57 AM
To: Phumeza Nhantsi
Cc: Carol Chinjeke
Subject: Meeting with lawyers - Lourens

Dear Phumeza

I refer to our telecom of this morning.

Lourens will be available to meet with the lawyers tomorrow Thursday, 20 April at 5.15pm in his office as we he will be in wage negotiations for the day.

Regards

Hester Du Toit | Senior Secretary to Lourens Erasmus | Employee Relations

Phone: +2711 978-3317 | Fax: +2711 978-5645 | E-Mail: HesterDuToit@flysaa.com
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Directors

DC Myeni* (Chairperson), Y Kwinana*, JE Tambi* (Sierra Leonean)

*Non-Executive Director

Company Secretary - Ruth Kibuuka

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Tel: 27 11 978-1736
Email: phumezanhantsi@flysaa.com

Masimba Phillip Dahwa
3 Claron Park
45 Theron Street
CLARINA, PRETORIA

22 April 2016

Dear Mr Dahwa,

NOTIFICATION OF TERMINATION OF EMPLOYMENT

1. The disciplinary hearing which was held into the misconduct charges against you has reference.

2. In terms of the outcome of the disciplinary hearing mentioned above, the Chairperson has found you guilty of all the charges and recommended that dismissal, in the light of the serious nature of the misconduct, is an appropriate sanction.

3. In the circumstances, you are hereby notified that your employment with the Company is terminated with immediate effect based on the outcome of the disciplinary hearing.

4. You are requested to handover and return all the Company equipment in your possession (including but not limited to access card, office keys, cellphones, laptop and documents, computer disks and the like in your possession).

5. All the Company equipment and documents must be returned on or before close of business on 25 April 2016.

Yours faithfully,

Phumeza Nhantsi
Interim CFO
South African Airways

Directors

DC Myeni* (Chairperson), M Zwane (Acting Chief Executive Officer), P Nhantsi (Interim Chief Financial Officer), Y Kwinana*, JE Tamb* (Sierra Leonean)

*Non-Executive Director

Company Secretary - Ruth Kibuuka

South African Airways SOC Ltd Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER

COMMISSION OF INQUIRY
INTO STATE CAPTURE

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DISCIPLINARY PROCEEDINGS

In the matter between:

SOUTH AFRICAN AIRWAYS SOC LIMITED (SAA) Employer

and

DR MASIMBA PHILLIP DAHWA Employee

RULING

Introduction

1 South African Airways SOC Limited ("the employer") charged Dr Masimba Phillip Dahwa ("the employee") with several contraventions of his duties as a Senior Manager. This was on 26 February 2016. The employer persisted with six of the original seven charges. These charges are as follows:

Charge 1 - Giving or making false statements in the execution of his duties

2 In support of this charge, the employer contends that the employee, in his capacity as Chief Procurement Officer ("the CPO"), and at a roadshow staged in Durban on or about 18 September 2015:

2.1 advised members of the board of directors of the employer and attendees at a supplier transformation briefing that the jet fuel procurement process of the employer entailed a full value chain

which could be used to achieve certain identified transformation objectives;

2.2 created the wrong impression that the jet fuel procurement requirements of the employer included five independent streams made up of supply from the refineries or imported fuel, storage directly from the refinery or imports, transportation by pipe or other means, storage facilities at the airport and fuel delivery into the aircraft, and that all these were available to new participants, these being Black Economic Empowerment SMMEs ("BEE SMMEs");

2.3 caused members of the board, relying on the incorrect advice given by him to announce, at the roadshow, and to the mainly BEE SMMEs that had shown an interest in the employer's fuel procurement process, that these independent streams were available to them as procurement opportunities offered by the employer.

3 As a result of the aforegoing, the employer:

3.1 created an incorrect impression that produced an expectation on the part of the BEE SMMEs;

3.2 suffered reputational damage in that it is now perceived as disseminating false and misleading information in the marketplace.

4 By virtue of his position as the CPO, the employee knew or should have known that the employer carries on the business of an airline and is not involved in the supply of jet fuel from refineries.

Charge 2 - Giving or making false statements in the execution of his duties

5 In support of this charge, the employer contends that its board resolved at a meeting of its members on 14 September 2015 to approve the extension of the Swissport SA contract for ground handling and cargo services at domestic locations with an agreed 30% set aside for BEE SMMEs, and that the employee:

5.1 made a statement to employer representatives and attendees at a supplier transformation briefing that he had sent a letter of award confirming the contract term for a Swissport contract during the presence of representatives of Swissport and their BEE partners.

6 The employer contends that the employee knew or should have known that he had not issued the letter and, accordingly, the statement was false and misleading.

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Charge 3 - Refusal or failure to carry out a lawful and reasonable instruction

7 In support of this charge, the employer says that an instruction was issued to the employee on 2 February 2016 directing him to respond to a written instruction, from the employer, calling upon the employee to say, on or before 5 February 2016, why the employer should not suspend him.

8 There was, to the employer's aforementioned instruction, no response from the employee.

Charge 5 - Refusal or failure to carry out a lawful and reasonable instruction

9 Support for this charge is to be found in the employee's refusal, or neglect, to implement certain resolutions of the board of directors of the employer.

Charge 6 – Dereliction of duties, alternatively unsatisfactory performance of services (other than capacity)

10 In support of this charge, the employer says that the employee, in his role as the CPO responsible for processing all procurement requests received from various business units of the employer, delayed and/or refused to constitute or enable the relevant governance committees set up for the

purpose of evaluating and adjudicating a tender for the modernisation of the cargo terminal at OR Tambo International Airport. The particular tender was issued in or about September 2014 by the Global Supply Management at the instance and request of SAA Cargo Division, a business unit of the employer.

11 The employer contends that the tender proposals received as such in 2014 remain unopened as the result of the employee's delay. As a result, the tender process will have to be cancelled and bidders refunded their money.

Charge 7 – Dereliction of duties, alternatively unsatisfactory performances of services (other than incapacity)

12 This charge is based on the employee's refusal, notwithstanding several requests and reminders, to provide feedback on certain deliverables contained in a Shareholder Compact which is said to be an agreement between the Government of the Republic of South Africa, represented by the Minister of Finance, and the employer.

13 As such, contends the employer, the employee is guilty of serious breaches that warrant his dismissal.

The proceedings

Preliminary issues

14 At the commencement of the hearing, I enquired from the employee whether he had legal representation. His response was that he had requested for someone from his lawyers to appear, but that they needed twenty days' notice.

15 I then asked the employee whether he had any communication in this regard that he had either sent to his lawyers or received from them. He responded by saying that he had it and that it was in an e-mail. I asked to be provided with a copy of that communication. As I write this ruling, I have still not received any confirmation regarding the issue of the attorneys, suffice to indicate that Mr Nalane, as the initiator, confirmed to me that there is no record of any attorneys (acting for the employee).

16 Mr Nalane then took me through two e-mails, one by the employee, this being the first e-mail, and the second, a response from Ms Phumeza Nhantsi, the employee's manager.

17 In the employee's e-mail, he raises three issues of importance, and significance, as will appear later on in this ruling. The first issue relates to his request that the hearing be set down for a day and not more. The second relates to whether or not the presiding and disciplinary officers would be external officials. Finally, the employee took issue with Ms

Nhantsi's waiver of a prohibition, in the employer's Disciplinary Code and Procedure, against an employee in the position or rank of the employee using legal representation in a disciplinary hearing.

18 In her response to the employee's e-mail, Ms Nhantsi made three things clear: one, the waiver could only have been to the benefit of the employee and two, he was at liberty not to accept it if he so chose. Finally, said Ms Nhantsi, she could not understand how the employee would think that the hearing could be concluded in one day: "*what happens*", she wrote, "*if we do not conclude the hearing within one day? I believe two days will be enough, taking into account that there will be witnesses that will be led and cross-examined*".[1]

19 The employee also complained that he did not know who the complainant was. As such, he proceeded to explain to me, he could not "*even follow what is happening*".[2] Finally, he disclosed that he was an Adventist and as such could not do any work or read on the Sabbath. This revelation will have a bearing on one or two matters later on in my ruling.

20 I revisited the issue of the employee's legal representatives, and this because I needed to ensure that he would be given as fair a hearing as

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[1] Record.

[2] Record.

possible. He gave their name only as "*Khulani*"[3] and said that he had first consulted them around the time of his suspension in December 2015.

21 I asked the employee whether he thought there was a need for his attorneys to inform the employer that they were on record. He confessed the need. I also asked him whether the attorneys had told him why they needed twenty days. They said that "*their diaries are quite busy*"[4] was his response.

22 Finally, the employee returned to the issue of the identities of the complainant, and his employer. He said he did not feel comfortable not knowing who these were. I asked to be shown his contract of employment and the parties to it. The employer was said to be South African Airways SOC Limited. This settled the twofold difficulty of identity of the employer and complainant.

23 After taking the trouble to assure the employee that he would be given a fair hearing and that I would give him such assistance as he needed considering that especially in relation to the proceedings he was a layman, the matter was eventually ripe for hearing. The employee

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[3] Record.

[4] Record.

pleaded not guilty. The employer had lined up four witnesses whose material evidence I now set out.

Evidence-in-chief of Ms Phumeza Nhantsi

24 As Mr Nalane began to lead Ms Nhantsi, it appeared to me that the employee had a different set of papers from the bundles handed to me and used by both Mr Nalane and the witness.

25 I asked for an explanation for this and was told by Mr Nalane that the employee had refused the bundle prepared for him. I turned to the employee for his response. He had refused the bundles because they had been given to him, as he put it, "*when I have prepared for my hearing because I am going to struggle, first and foremost I do not know whether all my documents are*"[5], I can only speculate, included in the bundle.

26 The possibility, or worse, reality, that the employer had only given the employee the bundles in the morning troubled me as the potential for some inconvenience to the employee reared its head. I then sought more clarity on the issue and was told, by the employee, that the bundles had been offered to him "*on the 9th, when we came to exchange*

[5] Record.

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documents".[6] That settled the matter but I still went on to offer him the bundles and to guide him on how to navigate them.

27 I pleaded with both the employee and Mr Nalane to ensure that there was co-operation and that the matter proceeded smoothly. As for the employee, I gave him the assurance of a fair hearing. The matter proceeded.

28 Ms Nhantsi gave evidence as set out hereunder.

29 She is the employer's Chief Finance Officer ("the CFO") since 27 November 2015. She was seconded to this position from her usual position of director at SizweNtshalubaGobodo.

30 The employee is the CPO and as such reports directly to her. They both operate in the supply chain management of the employer.

31 As she reports directly to the Chief Executive Officer ("the CEO") she had a session with members of the board of directors of the employer.

32 The board had raised concerns with her that management does not want to implement resolutions of the board. One such resolution related to the Swissport contract.

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[6] Record.

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33 Swissport is a ground handling company responsible for bringing stairs and wheelchairs for passengers to embark and disembark from the aircraft. They also clean toilets and the like. "*Without Swissport, services that they are doing, SAA cannot operate, it will be at a standstill on the day.*"[7]

34 Swissport, and some 101 other service providers, provide services to the employer on the basis of only letters of award but no contracts. This is in contravention of the employer's supply chain management policy. It is also in contravention of the Public Finance Management Act ("the PFMA").

35 The absence of a contract, at least in relation to Swissport, means that there is no penalty or cancellation clause. The amount paid to Swissport per annum is plus or minus R370 million.

36 Part of the resolution taken by the board required that the employer's service providers would have to set aside 30% for BEE SMMEs. This was conceived as part of transformation designed to benefit previously disadvantaged companies owned by blacks, women and military veterans.

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[7] Record.

37 At a meeting she held with the employee on or around 3 December 2015 for the purpose of preparing for her own meeting with the board, she conveyed to him the concerns raised by the board. The employee's response, she says, was that the employee said he does not understand why the board is fussy about Swissport because there are so many service providers at SAA that do not have contracts. His view was that they should just go ahead.

38 The employee's duty, as the CPO, is to liaise and engage with the employer's legal department and to ensure that contracts are concluded following letters of award.

39 When she explained to him that it was his duty to engage the legal department he responded by saying that it is not his duty to talk to legal and that the legal department is understaffed. She saw this as the employee detaching himself from his responsibilities. In consequence, she placed the employee on special leave.

40 One thing that the employee had done is write to the board and express the view that his conscience does not allow him to implement the resolution relating to Swissport and the setting aside of 30% for BEE SMMEs. The employee undermined the authority of the board.

41 As matters stand, she was "*happy to say (that) subsequent to that we have successfully negotiated with Swissport and we have yesterday*

Chair, signed the contract with Swissport, so this, it is an indication that Dr Dahwa did not want to do it, it was not impossible or impractical, because we have done it. Yesterday we have signed a contract with 30% set aside for BEEs with Swissport."[8]

42 As regards her request to the employee to make representations as to why he should not be suspended, he never responded until he intimated to her, on 9 February 2016, that he had sent his response to her and the General Manager of Human Resources.

43 She gave evidence that she told him that she had not received the response and had in fact checked her inbox, junk status and everywhere.

44 In the employee's response e-mail dated 4 February 2016, reference is made to an e-mail sent on 11 December 2015 (this being apparently the employee's initial response to her request for representations). In this e-mail, the employee was adamant that he did not see any new matters to which he needed to respond.

45 She felt that the employee had undermined her authority and had also taken umbrage at him writing in one of the e-mails that she should stop "*ping-pong*" (with) him. In the e-mail, the employee had said he is "*not happy with these e-mail ping pongs …*".

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[8] Record.

Cross-examination of Ms Nhantsi

46 In a wide-ranging cross-examination the employee asked Ms Nhantsi who the complainant in the case was, who the company was and whether she was the person charging him.

47 The complainant was SAA and yes, she was the person charging him.

48 It was then put to her that she had acted on hearsay rather than on things of fact, things that she knew. In particular she was cross-examined on the statement she attributed to the employee saying that his conscience precluded him from implementing board resolutions.

49 She had gleaned this from the submission he had made to the board.

50 I drew the employee's attention to a letter written by him and asked him to read it into the record. "*My statement to Ms Kwinana*", he wrote, "*was that it was against my conscience which was valid and it was a talk between me and the Board member*".

51 I asked the employee whether those were his words. They were, he said.

52 He asked Ms Nhantsi whether she appreciated that a tender can only be awarded once following a duty and a process, and whether she appreciated that the employer runs a regulated public procurement process.

53 Her response was that the reason the board said he had misled the audience at the roadshow was that he had said letters were issued. What he should have said is that the procurement process would be followed and the award letters sent,

54 He asked her about the issue of drafting contracts and the role of the legal department. According to her, he was supposed to tell the legal department to draft the contracts because they would not have known when to do so.

55 To questions relating to a 2012 letter of award when the employee had not yet taken employment with the employer, her response was that she was raising the issue of the 2015 resolution and that no contracts had been concluded in consequence of that resolution.

56 The employee suggested that an external expert on the subject of contracting was needed. Ms Nhantsi asked why an expert was needed when Swissport had agreed to set aside 30% and all that remained was for the contract to be concluded.

57 The employee asked about the special leave and from where it had emanated, and the policy relied upon. Ms Nhantsi responded that she needed to do an investigation which she did not want the employee to disturb.

58 Finally the employee revisited the issue of outsiders and made statements about being surrounded by strangers and people he did not know. These strangers, being the attorney, initiator and chairman were said to be asking things they "*do not even know*" themselves.

59 The cross-examination descended into a tirade which did not take the matter anywhere. I pleaded with the employee to co-operate and to be reasonable in ensuring that the hearing proceeded in a structured manner. I had limited success.

No re-examination of Ms Nhantsi

Evidence-in-chief of Mr Luthuli

60 He is the Head of Department of Cargo Operations, business unit of the employer.

61 His department relies on the services of procurement to acquire items and services needed by his department. The latter generates a revenue in excess of R2 billion.

62 A tender was issued for the modernisation of the cargo terminal at OR Tambo International Airport. The exercise formed a strategic initiative to revitalise the facility with a view to improving customer service, improving efficiencies as well as the viability of the business.

63 The employer had recently suffered the loss of long term Emirates and Egypt Air cargo handling contracts estimated to be around R30 million in annual revenue.

64 The cargo handling facility was decaying and had led to frustrations regarding its ability to deliver the necessary service.

65 A business case had been prepared motivating a need to conduct the modernisation of the facility.

66 The exercise formed part of a turnaround strategy to rescue the employer's financial woes.

67 Tender proposals had been received in 2014 and had remained unopened because of the employee's delay to sign off members of the cross functional sourcing team and this because he objected to the participation of certain members, among them the very head of the Cargo Division.

68 His role had been to participate in the cross functioning sourcing team ("the CFST") in order to guide it and to ensure that the correct specifications and requirements were in place.

69 He had not been able to participate in the CFST because the employee had a difficulty with certain members participating in it and had steadfastly refused to sign off the composition of this team.

70 Notwithstanding a resolution taken for the CFST to do its job and in particular proceed with the cargo modernisation project the employee had, from as far back as 2014, refused to sign off the CFST and to cite "*contrasting reasons*" for this.

71 In consequence of what the employee had done – or really not done – the execution of adjudication could not be done and there was stagnation of a critical project.

72 In particular, he did not understand why the employee objected to his participation in a project relating to a division of which he was head especially when his inputs were vital.

73 The employee never got to sign off the CFST notwithstanding requests and reminders to do so, and the pressing pressures for this to be done.

74 Instead of signing the CFST off the employee instructed that it be reconstituted and a Mr Makoro be included in it. Mr Makoro is the deputy chair of BAC (i.e. the bid adjudication committee) and head of Risk.

75 He had written a letter to the current Acting CPO, a Mr Lester Peter, complaining that the matter of the modernisation of the cargo terminal was "*stuck in Doctor Masimba's office since as far back as November last year*" (i.e. 2014).

76 With the coming onto the scene of Advocate Lester Peter as the acting/interim CFO, the CFST has now been put in place and all that remains outstanding is for a budget to be found.

77 The reason why it would have been necessary for him to participate in the CFST is that as HOD of Cargo he would have been in a better position to evaluate potential service providers needed to render a service for the business unit.

Cross examination of Mr Luthuli

78 Mr Luthuli was asked about his knowledge of running tender committees and about his understanding of the composition of CFSTs.

79 His response was that he had been involved as a member of the bid adjudication committee.

80 He was further asked why, despite a CFST having been in place before the employee took up employment, there had not been procurement of the goods and services envisaged by the tender process.

81 The response was that the delay manifested itself after the employee had taken over as the CPO.

82 The employee suggested that he had asked that the tender be cancelled because of irregularities relating to specifications and the composition of the CFST. Mr Luthuli denied this.

83 The matter was adjourned on the first day and was scheduled to be heard two days later. On the second day, the initiator produced a medical certificate which had been provided to the employee following a consultation he had had with a medical doctor on the day after the adjournment. The medical certificate said that the employee was booked off for a condition described only as a medical condition.

Evidence in chief of Ms Yakhe Kwinana

84 She is the non-executive board member and chairman of Audit and Risk Committee. She is also a chartered accountant by training.

85 She gave evidence that the CPO is responsible for procurement on behalf of the employer and that the estimated annual spend figure is R25 billion.

86 She attended a roadshow on or about 18 September 2015 at Durban accompanied by the employee.

87 The employee had, as she put it, lied to her and said the jet fuel tender is inclusive of six streams whereas on further inquiry it appeared that this comprised only of the supplier of jet fuel. She had communicated the incorrect information to a room full of more than 60 people. This had had the effect of bringing her name, the chairman's name and the employee's name into disrepute as they were all now seen as providing misleading information.

88 She had written a letter to the employee complaining about this misrepresentation. The employee's response was to deny making a representation to the board, but to admit having had an informal discussion with her. According to her, she could not have had an informal discussion about what was going to take place in Durban and accepted the communication to her as formal.

89 The employee had also lied, she said, about sending an award letter to Swissport when, as a matter of fact, this was not the case.

90 Finally, she gave evidence about a resolution taken by the board extending the Swissport SA contract with an agreement to set aside 30% for B-BBEE SMME's.

91 The sentiment of the board was that the employee displayed gross insubordination in that he refused to implement a resolution taken by the board. In consequence, she was adamant that she would not be able to carry on working with the employee in whom the current board had lost its trust.

92 With the employee, she maintained transformation would not go anywhere.

There was no cross examination as the employee had stayed away from the proceedings.

Evidence in chief of Ms Mimmi Attias

93 She is a project manager attached to the office of the CEO.

94 The employee was responsible and accountable as a CPO in ensuring that the key performance indicators embodied in a shareholder's compact are implemented.

95 She had written an email to the employee identifying items in the shareholder's compact that were due to be submitted to National Treasury by the end of September 2015. In that email, she asked the employee to explain reasons for the delay and her commitment to a date by when the tasks would be completed.

96 When the employee did not respond, another email was sent to the employee's then manager asking him to get the employee to respond to the original email.

97 The response from the employee's manager was to send an email to the employee asking him to respond as a matter of urgency and pointing out that there was enough negative attention currently directed at procurement. The employee's response was to say that he did not know what this KPI entails. In effect, the employee was saying that he did not know what the shareholder's agreement entailed.

98 In the last instance, she recently wrote a letter to Mr Lester Peter as the current acting CPO raising the same issues as were raised in the earlier emails.

There was no cross examination of Ms Mimmi Attias

Analysis of the evidence

99 The evidence tendered by all the witnesses had one central feature: an employee who was unwilling to take instructions and would do whatever he could to evade being subjected to the disciplinary hearing. As examples, there was an attempt to stall the proceedings by suggesting that his lawyers had requested 20 (twenty) days notice, challenging the impartiality of the attorney, initiator, and chairman, the failure to respond to a letter asking him to explain why he should not be put on special leave, the attempt to produce a hollow medical certificate and the failure to implement a board resolution to set aside 30% of every tender awarded to B-BBEE SMEEs without any lawful explanation.

100 That the employee was prepared to walk away from the proceedings without giving himself a chance to cross examine the two last witnesses and to give his own evidence are matters that can only work against him. His instance that the matter be concluded within one day spoke volumes about his attitude to the proceedings and the irregular medical certificate.

101 The employee has, in my view, put himself within the net of **Old Mutual Life Assurance Co SA Ltd v Gumbi** [9]. In that case, as in the present, the employee had behaved in a manner that evinced every intention to frustrate the finalisation of the hearing by securing a medical certificate in order to circumvent appearing before the tribunal.

102 In this respect, regard must be had to the following extract from the **Old Mutual** *supra* case: [10]

> "*The facts of a particular case determine the weight to be attached to such interest on each side of the scale. Expressing the view of this Court on this topic in National Union of Metalworkers of SA v Vetsak Co-operative Ltd and Others 1996 (4) SA 577 (A) ((1996) 17 ILJ 455) Smalberger JA said at 589C-D (SA):*
>
> > *'Fairness comprehends that regard must be head not only to the position and interests of the worker; but also those of the employer, in order to make a balanced and equitable assessment. In judging fairness, a court applies a moral or value judgment to established facts and circumstances … And in doing so it must have due and proper regard to the objectives sought to be achieved by the Act. In my view, it would be unwise and undesirable to lay down, or to attempt to lay down, any universally applicable test for deciding what is fair.'*

103 The analysis of the evidence given is admittedly brief and no purpose could be served by going into an elaborate detail when the facts are what they are as is the evidence.

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[9] 2007 (5) SA 552 (SCA)

[10] p 555, C-E

104 Given the serious nature of the allegations against the employee, the overwhelming evidence tendered by the witnesses as well as the documentation points to a complete breakdown in the relationship of trust between the employee and the employer with the result that, in the circumstances, I must find the employee guilty of all the charges and recommend a sanction of dismissal.

Khotso D Ramolefe
Chairman
Sandton Chambers
4 April 2016

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LE13

Lourens Erasmus (Employee Relations)

From: Khanyisile Khanyile
Sent: Thursday, 26 May 2016 14:29
To: Lourens Erasmus (Employee Relations)
Subject: Masimba Dhahwa

Dear Lourens

I have now received the notice of set down for conciliation for this matter and I asked for the documents in order to start preparing. So far Catherine says she was only provided with the outcome and the notice of sanction.

Based on my reading of the outcome I have identified a few issues on the face of the outcome.

1. The employee was charged with "*refusal or failure to carry out a lawful and reasonable instruction in that he was issued an instruction to say why he should not be suspended and no response was received from the employee*".
2. Despite the above charge, the CFO admits, in paragraph 42, to having received a response on 9 February indicating that he had responded. Furthermore, in paragraph 44 she testifies that in an email on 4 February the employee responded by referring to an email sent on 11 December in which the employee "allegedly responds" and states that he does not see any new matters which he needs to respond to.
3. At paragraph 39 there is an admission that the employee was placed on special leave after he was questioned about not implementing a board resolution regarding swissport and the drafting of a contract for swissport.
4. The employee raised the issue of who was the D/O and P/O and who was charging him and it was confirmed under cross examination by the CFO that she was the one charging him.
5. At paragraph 50 the P/O indicates that he drew the employee to evidence that should have been led by the employer. This evidence has not been referred to anywhere else in the outcome prior to this paragraph. To me this shows that the P/O was complicit in proving a case against the employee and was not impartial in his duties. I should mention that this is raised while the employee was cross examining the CFO and not in his testimony.
6. The employee raised the issue of the capacity of all involved in the disciplinary process and alleged that an expert was needed on drafting contracts and the process in procurement. In particular the issue of there being attorneys present who did not understand the issues relating to procurement.
7. The employee was charged with "*dereliction of duties in that he delayed and/ or refused to constitute the relevant governance committees set up for the purpose of evaluating and adjudicating a tender for the modernisation of the cargo terminal at ORTIA*". The employee put it to Mr Luthuli who was called to testify that the employee had suggested that this tender be cancelled because of irregularities relating to

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specifications and composition of the CFST. Mr Luthuli denied this but he would not be the expert on this issue.

8. Paragraph 83 deals with the sick note submitted by the employee. The veracity of the certificate is not challenged.
9. Yakhe Kwinana and Mimmi Attias testified and were not cross examined because "the employee had stayed away from the proceedings.
10. The P/O in paragraph 99 finds the employee unwilling to take instructions and makes reference to him not making representations on why he should not be suspended and thus not following an instruction. The employee is also accused of attempting to stall the proceedings by producing a "hollow medical certificate".
11. Paragraph 100 states that the employee "*was prepared to walk away from the proceedings without giving himself a chance to cross examine the last two witnesses and that this can only work against him*". Reference is again made to an "*irregular medical certificate*". However, the veracity of the certificate was never actually challenged.
12. The P/O relied on the case of Old Mutual Life Assurance v Gumbi which I read. This case is different in that the disciplinary hearing had first taken place without the employee being present because of a sick note, but upon appeal he was reinstated and then charged again. At the second hearing he was represented and fell sick during the hearing. This, however, took place after the employee's representative was rude and obstructive. Furthermore, when the sick note was presented the chairperson gave the employee a chance to recover and then to proceed but the employees representative insisted that the employee would not return and that the process could continue. The sick note also did not indicate that the employee was unable to continue with the proceedings given that the diagnosis was "tension headache and enteritis". Of importance however is that the employee was afforded an opportunity to present himself and this was communicated to his representative, who refused the offer on the employee's behalf. There is no indication in Dr Dhahwa's case that he was afforded a similar opportunity based on the outcome.

The above is in addition to the concerns already expressed. On this basis I thus believe that we are still highly exposed should we proceed with defending this matter.

Kind regards

Khanyisile Khanyile | Employee Relations Specialist | Employee Relations

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Room 134,1st Floor,Block E,Airways Park- Johannesburg- South Africa

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LE14

Lourens Erasmus (Employee Relations)

From: Lourens Erasmus (Employee Relations)
Sent: Tuesday, 12 July 2016 17:25
To: 'MbongeniManqele@flysaa.com'
Cc: Phumeza Nhantsi
Subject: FW: MP Dahwa // SAA (SOC) LTD GAEK 4253/16
Attachments: SKMBT_C35160712153200.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mbo
Attached is for your info. As HR and ER was not involved with this case from the start Phumeza has undertaken to proceed with it using the lawyers who assisted in the disciplinary hearing.

regards
Lourens Erasmus | HOD: Employee Relations | Employee Relations - Human Resources

Phone: +2711-978-3365 | E-Mail: LourensErasmus2@flysaa.com
Room 135, 1st Floor, Block E, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

From: Lourens Erasmus (Employee Relations)
Sent: 12 July 2016 04:40 PM
To: Phumeza Nhantsi; Yolanda Barron
Subject: FW: MP Dahwa // SAA (SOC) LTD GAEK 4253/16

Dear Phumeza
Please find attached correspondence for your attention. Thank you.

regards
Lourens Erasmus | HOD: Employee Relations | Employee Relations - Human Resources

Phone: +2711-978-3365 | E-Mail: LourensErasmus2@flysaa.com
Room 135, 1st Floor, Block E, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

From: jrattorneys [mailto:jrattorneys@yebo.co.za]
Sent: 12 July 2016 04:15 PM
To: Lourens Erasmus (Employee Relations)
Subject: MP Dahwa // SAA (SOC) LTD GAEK 4253/16

Dear Sir
Attach hereto kindly find a letter for your urgent attention.

Kind regards,
Johanette Rheeder
Johanette Rheeder Incorporated
Tel: 012 667 1583 Cell: 072 177 1966
Fax: 086 6166 312 / 012 667 2854
601 Broadbury Circle, Cornwall Hill, Centurion
PO Box 208, Cornwall Hill 0178
www.jrattorneys.co.za

COMMISSION OF INQUIRY INTO STATE CAPTURE

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From: minolta.scanner1@gmail.com [mailto:minolta.scanner1@gmail.com]
Sent: 12 July 2016 03:33 PM
To: jrattorneys@yebo.co.za
Subject: Message from

Attorneys · Prokureurs

South African Airways SOC Limited (SAA)
Private Bag X13,
KEMPTON PARK,
1627
Airways Park,
32 Jones Road,
Kempton Park, JOHANNESBURG

Attention: Mr Lourens Erasmus - SAA Head of Employee Relations
lourense@flysaa.com

AND TO:

Chief Executive Officer: Mr. Nico Bezuidenhout
Fax: (011) 978 6055

AND TO:

Chief Financial Officer: Mr. Wolfgang Meyer
Fax: (011) 978 2999

12 July 2016

Our ref: J Rheeder/UD/Dahwa:

Your ref: Mr Lourens Erasmus

Dear Sir

Without prejudice

RE: UNFAIR DISMISSAL: DR Masimba Phillip Dahwa

Kindly note that we act on behalf of Dr Dahwa in the above unfair dismissal case before the CCMA. As such, any further correspondence, documents,

Johanette Rheeder Incorporated 2012/107504/21
BLC.LLB.LLM
Telephone: +27 12 667 1583 Facsimile: 086 6166 312/012 667 1583 Cellular: 072 1771966
johanette@jrattorneys.co.za PO Box 208, Cornwall Hill 0178
www.jrattorneys.co.za
Director: Johanette Rheeder; Kellie Kirsty Hennessy (Senior Associate); Hennie Le Roux (Associate)
Oloff Bergh (IT and office)

COMMISSION OF INQUIRY INTO STATE CAPTURE

notices and pleadings must be referred to this office for notice of writer hereof.

Our client has instructed us that he has been dismissed unfairly and without the SAA following a fair and transparent procedure against him on 22 April 2016. In this regard our client has reason to believe that the chairperson was involved in the matter from the beginning, in drafting the charges and clearly acted in a biased and premediated fashion when he chaired the disciplinary hearing and issued a finding and recommendation. The chairperson did not demonstrate a clear understanding of the procurement processes as applied at the SAA and blindly favoured the version of the company witnesses.

Our client also attempted to bring serious irregularities in the SAA to the attention of his Line Manager, Mr Wolfgang Meyer and to the Acting CEO Ms Thuli Mpshe, to no avail. In this regard our client was pressurised to commit acts which are contra to SAA policies and procedures and the PFMA.

In light of this blatant and pre-meditated unfairness, our client has instructed us to supply you with the referral to arbitration in order to pursue this matter to conclusion as soon as possible (see copy attached). In this regard our client will seek retrospective reinstatement in the CCMA into his position and any subsequent tarnishing of his character and reputational damage at work amongst his peers, subordinates and service providers to be corrected by the SAA.

In order for us to prepare for the arbitration we need access to the following witnesses and documentation, for which subpoenas will be issued in due course. Kindly indicate when we can arrange for consultations with these witnesses and provide us with access to the premises to do so:

1. Mr Wolf Meyer
2. Ms Thuli Mpshe - General Manager HR
3. Ms Dudu Myeni
4. Mr David Van Rooyen
6. Mr Thami Sogwazile
7. Mr Joseph Makoro
8. Mr Neville Kelly - Account Manager (Amadeus)
9. Mr Phinda Ncala - SAA Chief Information Officer

10. Ms Ruth Kibuuka - SAA Company Secretary
11. Mr Peter Kohl - Swissport Chief Executive Officer
12. Ntombi Nzeocha - Commodity Manager
13. Renette Slabbert - Commodity Manager
14. Josua Du Plessis
15. Adv Ramolefe

You are also requested to supply us within a period of 7 days of this letter with the following document in order for us to prepare for arbitration:

1. Ernest and Young forensic audit report pertaining to contracts at SAA
2. ENS forensic report on the OR Tambo Modernisation Tender
3. Request for a technical report from National Treasury
4. A report from SAA Head of Security regarding the whistle blowing done on the OR Tambo Modernisation Tender
5. Appointment letter of the chairperson of the disciplinary hearing
6. All notes and documents created by the chairperson in making a finding in the disciplinary hearing.
7. The recording and the transcription of the disciplinary hearing
8. All relevant policies and procedures and instructions relating the transgressions our client was dismissed for
9. Procurement policies
10. Disciplinary code and procedures applicable to our client
11. Policy and procedures on protected disclosures, including the name of the relevant officer in the SAA responsible for protected disclosures.

In light of the above we have estimated that the matter will take at least 7 days to complete and we therefore propose that the CCMA be requested to allocate us 7 consecutive days and appoint a senior commissioner to hear the matter.

Our client further instructed us that a settlement offer of 3 months compensation was made at the conciliation meeting between the parties at the CCMA. Our client rejects the settlement offer, but has instructed us that he is willing to discuss an amicable settlement (without prejudice) which is based on fair terms between the parties.

In this regard, our client is prepared to accept a settlement offer of nine (9) month's compensation based on gross pay, in full and final settlement. Furthermore, that our client be afforded the opportunity to resign with retrospective effect in order to clear his record. Furthermore, that the SAA undertake not to publish any derogative comment about our client or in any way tarnish our client's reputation in the future or give a negative reference to any prospective employer.

Your are hereby informed that this offer of our client is open for a period of 48 hours, and that we require an answer from the SAA by **14 July 2016** where after it will lapse automatically and the matter will proceed to arbitration.

Yours truly

J Rheeder.

COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-1832

LRA Form 7.13
Labour Relations Act, 1995
Sections 16, 21, 22, 24, 45, 51, 74, 86, 94, 133, 141, 191, 198, 198A-C
Employment Equity Act, 1998
Sections 10
Basic Conditions of Employment Act, 1997
Sections 41
Skills Development Act, 1998
Section 19

REQUEST FOR ARBITRATION

(Demarcation disputes (Section 62) must be processed on LRA Form 3.23)

CCMA

Read This First

WHAT IS THE PURPOSE OF THIS FORM?

If conciliation fails, a party may request that the CCMA resolve the dispute by arbitration.

WHO FILLS IN THIS FORM?

The party requesting the arbitration.

WHERE DOES THIS FORM GO?

To the Registrar at the Regional Office of the CCMA.

This should be the same office, which conducted the conciliation.

If an accredited council or agency is to arbitrate the dispute, the request for arbitration must be sent to their offices.

If in doubt, contact the CCMA for help.

1. DETAILS OF PARTY REQUESTING ARBITRATION

Name : Masimba Phillip Dahwa

Postal Address: Po Box 208, Cornwall Hill, Code: 0178

Tel: 012 667 1583 Fax: 0866166312

Cell: Email: jahanette@jattorneys.co.za

Contact person:

2. DISPUTE DETAILS

The case between:

M.P Dahwa (referring party)

and

SAA (Soc) Ltd. (other party)

was referred for conciliation, but remains unresolved.

The certificate of non-resolution is attached / ~~30 days have expired since referral (delete whichever is not applicable)~~.

The issues in dispute are Unfair dismissal after substantive and procedural unfair disciplinary hearing

(Give a brief description. The commissioner may require a more detailed statement of case later.)

CCMA Case Number: GAEK 11255-16

Please turn over →

OTHER INSTRUCTIONS

A copy of this form must be served on the other party.

Proof that a copy of this form has been served on the other party must be supplied by attaching any of the following:

- A copy of a registered slip from the Post Office; or
- A copy of a signed receipt if hand delivered; or
- A signed statement confirming service by the person delivering the form;
- A copy of a fax confirmation slip; or
- A copy of an email confirmation slip or sent email; or
- Any other satisfactory proof of service.

The CCMA may be requested to assist with service.

CHECK!

Have you sent a copy of this completed form to the other party?

Have you included proof that you have sent a copy to the other party with this form?

Have you attached the certificate confirming that the dispute was unresolved through conciliation?

3. DETAILS OF OTHER PARTY

Name : SAA (Soc) Ltd

Designation: HR Manager

Postal Address: 1 Jones Road, Airways Park, OR Tambo Int Code:

Physical Address: OR Tambo International

Code:

Tel: 011 978 5313 Fax: 011 833 7646 90 / 7986055

Cell: Email: lourensse@flysaa.com

4. OUTCOME REQUIRED:

Reinstatement - Retrospective

5. CONFIRMATION OF ABOVE DETAILS:

Form submitted by: J Rheeder

(please print name)

Signature:

Position: Attorney

Date: 12/7/16

Place: Centurion

This form must be signed by the requesting party or a person entitled to represent the party in the arbitration proceedings.

COMMISSION FOR CONCILIATION MEDIATION AND ARBITRATION
INTO SCANNED STATE CAPTURE

DD34-DCM-1834

LRA Form 7.12, Labour Relations Act, 1995, Section 135(5)

CERTIFICATE OF OUTCOME OF DISPUTE REFERRED TO CONCILIATION

CCMA

CASE NUMBER: GA EK4253-16

I certify that the dispute between

Masimba Philip Dahwa
(referring party)

And

SAA (SOC) Ltd
(other party/parties)

Referred to conciliation on / condonation granted on: 11-05-2016 (insert date)

Concerning

- [x] Unfair Dismissal
- [ ] Mutual Interests
- [ ] Organisational Rights
- [ ] Unfair Discrimination
- [ ] Severance Pay
- [ ] Unfair Labour Practice
- [ ] _____

And relates to

- [x] Misconduct
- [ ] Reason Unknown
- [ ] Incapacity: Ill Health
- [ ] Interpretation & Application
- [ ] Operational Requirements
- [ ] Poor Work Performance
- [ ] Entitlement
- [ ] S186(2) (___)
- [ ] Constructive
- [ ] _____

Condonation: [ ] Granted [x] Not Applicable

[ ] was resolved on the _____ or [x] remains unresolved as at 03-06-2016

If this dispute remains unresolved, it can be referred to:

- [x] CCMA Arbitration
- [ ] Labour Court
- [ ] None
- [ ] Strike / Lockout

CCMA

Official stamp of the CCMA

Lebogang Maraga
Name of Commissioner (Please Print)

Signature of Commissioner

Benoni
Place

03-06-2016

Broadcast Result Report

2016.07.12 15:30
Serial No. A121041301440

Destination	Start Time	Time	Prints	Result	Note
0119786055	07-12 15:30	00:00:12	000/007	Busy	
0119782999	07-12 15:23	00:04:18	007/007	OK	

Result OK : Communication OK S-OK : Stop Communication Busy : Busy No Ans : No Answer
Cont : Continue LOVR : Receiving Length Over SOVR : Exceed Broadcast No. M-Full : Memory Full
NG : Other Error IL-PJL : PJL Error LGN-ER : Login Error

Note TMR : Timer TX PC : PC-Fax POL : Polling Call : Manual TX
FWD : Forward Fcode : F-Code BUL : Bulletin I-Fax : Internet Fax

COMMISSION OF INQUIRY INTO STATE CAPTURE

IN THE COMMISSION FOR CONCILIATION, MEDIATION AND ARBITRATION L E15
(HELD AT BENONI)

Case No: GAEK4253-16

In the matter between:

SOUTH AFRICAN AIRWAYS SOC LIMITED

And

DR MASIMBA PHILLIP DAHWA

(COLLECTIVELY REFERRED TO AS THE PARTIES)

MUTUAL SEPARATION AGREEMENT

1

RECORDAL

WHEREAS Applicant (referred to as the Employee) has referred an unfair dismissal dispute to the Commission for Conciliation, Mediation and Arbitration, which is set down for arbitration on 19 September 2016;

AND WHEREAS the Parties wish to record the settlement amount to which the Employee will be entitled by virtue of this agreement, and the Parties desire to avoid any claims, controversies or disputes with respect to the Employee's employment with the respondent, (referred to herein as the "Employer");

AND WHEREAS the parties have agreed to settle the dispute on certain terms and conditions as set out herein;

COMMISSION OF INQUIRY INTO STATE CAPTURE

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

The Employer agrees to:

2.1 Pay the Employee a lump sum amount which is the monetary equivalent of six months remuneration earned by the Applicant, in the amount of **R800 000.00 (EIGHT HUNDRED THOUSAND RAND)** less such tax as may be directed by the South African Revenue Service [hereinafter referred to as the "settlement amount"]. The Employer shall pay the settlement amount into the bank account of the Employee as nominated by the Employee.

2.2 The request for the tax directive from the South African Revenue Services will be requested by the Respondent electronically, within 2 (two) working days of the signature of this settlement agreement.

2.3 Payment of the settlement amount will be made to the Applicant within 5 (five) working days of receipt of the tax directive from the South African Revenue Services.

2.4 The Employer shall provide the Employee with a Certificate of Service as provided for in Section 42 of the Basic Conditions of Employment Act *inter alia* indicating the term of employment;

2.5 The settlement amount shall be paid to the Applicant into the following bank account:

Account holder: Dr. Masimba Phillip Dahwa

Bank: Investec Bank

Branch: 580105

Account number: 10011741988

COMMISSION OF INQUIRY INTO STATE CAPTURE

Account type: Cheque

3

The employee agrees to:

3.1 Withdraw the dispute in the CCMA under case number GAEK4253-16 on payment, by the Employer, of the settlement amount into the bank account of the Employee.

3.2 Formally tender his resignation to the Employer, on receipt of the payment of the settlement amount.

4

GENERAL TERMS

4.1 The settlement amount shall be paid as an *ex gratia* amount.

4.2 Each party shall bear its own costs in the arbitration proceedings.

4.3 Notwithstanding the preceding clauses, the parties agree that the settlement amount shall be paid, by no later than 9 September 2016, to the dedicated bank account of the Employee.

4.4 The parties consent to this agreement being made an Order of the Labour Court in terms of section 158(1)(c) of the Labour Relations Act, 66 of 1995.

5

General terms

5.1 The provisions of this Agreement are severable. If any provision is held to be invalid or unenforceable, it shall not affect the validity or enforceability of any other provision. A breach of one or more terms of

this Agreement by the Employee does not in any way affect the validity of the release of claims by the Employee.

(a) This Agreement shall be governed by the laws of South Africa.

(b) This is the entire agreement between the Employee and the Employer and supersedes any and all prior oral or written agreements or understandings between the Employee and the Employer. The Employer has made no promises to the Employee other than those set out in this Agreement.

5.2 This settlement offer is a full and final settlement of all and any employment dispute and is made on an *ex gratia* basis without admission of any liability by the Employer or the Employee, and is done purely in an endeavour to settle the matter amicably between the Parties.

5.3 The Employer records that the basis of the settlement is the economic implications of further litigation for the parties and that the settlement calculation is *in lieu* of further legal costs and salary.

5.4 This Agreement is the sole record of the conditions and terms between the Parties and no changes, amendments, variations and/or additions hereto shall be valid and enforceable against the other Party, unless it is reduced in writing and signed by or on behalf of both Parties and neither Party shall be bound by any warranty, representation, promise or the like not recorded herein.

SIGNED AT Pretoria ON THE 2nd DAY OF SEPTEMBER 2016

DR DAHWA

[signatory duly authorized]

AS WITNESSES:

1. _____

2. _____

SIGNED AT Airways Park ON THE 27th DAY OF SEPTEMBER 2016

SOUTH AFRICAN AIRWAYS SOC LTD

[signatory duly authorized]

AS WITNESSES:

1. _____

2. _____

COMMISSION OF INQUIRY INTO STATE CAPTURE

COMMISSION OF INQUIRY
INTO STATE CAPTURE

LE16

Lourens Erasmus (Employee Relations)

From: Mbuleli <mbuleli@bmkinc.co.za>
Sent: Saturday, 17 September 2016 15:14
To: Lourens Erasmus (Employee Relations)
Cc: Mbongeni Manqele; Khanyisile Khanyile
Subject: Re: SOUTH AFRICAN AIRWAYS SOC LTD // DR DAHWA

Dear Lourens,

Please be advised that Dr. Dahwa's legal representative is in full agreement with what is set out in my e-mail.

Kind regards
Mbuleli

Sent from my iPhone

On 17 Sep 2016, at 3:00 PM, Lourens Erasmus (Employee Relations) <LourensErasmus2@flysaa.com> wrote:

> Dear Mbuleli
> Surely, as a lawyer, you should obtain Mr Dahwa's legal representative's formal response before advising SAA to continue as you do below?
>
> regards
> Lourens Erasmus | HOD: Employee Relations | Employee Relations - Human Resources
>
> Phone: +2711-978-3365 | E-Mail: LourensErasmus2@flysaa.com
> Room 135, 1st Floor, Block E, Airways Park, OR Tambo International Airport- Johannesburg- South Africa
>
> **From:** Khanyisile Khanyile
> **Sent:** 16 September 2016 6:58 PM
> **To:** Lourens Erasmus (Employee Relations) <LourensErasmus2@flysaa.com>
> **Subject:** Fwd: SOUTH AFRICAN AIRWAYS SOC LTD // DR DAHWA
>
> Dear Lourens
>
> Please see below.
>
> Sent from my Samsung Galaxy smartphone.
>
> -------- Original message --------
> From: Mbuleli Kolisi <mbuleli@bmkinc.co.za>
> Date: 16/09/2016 16:05 (GMT+02:00)
> To: Mbongeni Manqele <MbongeniManqele@flysaa.com>
> Cc: Khanyisile Khanyile <KhanyisileKhanyile@flysaa.com>
> Subject: RE: SOUTH AFRICAN AIRWAYS SOC LTD // DR DAHWA
>
> Dear Mr. Manqele,
>
> We refer to the above-mentioned subject matter and the mutual separation agreement reached between SAA and Dr. Dahwa.

A short-while ago, we had a telephone discussion with Ms. Khanyile who enquired about the precise date(s) which should be referenced in the certificate of service required in terms of the aforesaid mutual separation agreement.

Usually, the date of dismissal is an appropriate and preferred date to be used, within the context of settlement- it should be indicated as the last date of service. Accordingly, my considered view is that SAA should use the same date for purposes of the required certificate of service for Dr. Dahwa. I tried to contact Dr. Dahwa's legal representative just to confirm that they are of a similar understanding, but could not reach them.

Effectively, and as a matter of principle, Dr. Dahwa left SAA's employment on the date of his dismissal, and therefore, there is nothing untoward with SAA using that date as the last date of his service period. The understanding, based on the settlement agreement, is that the certificate of service will record that Dr. Dahwa had resigned, as opposed to him having been dismissed. The effect of the settlement agreement is that, by agreement between the parties, the dismissal record, as it currently stands, is being expunged.

Kind regards
Mbuleli

Mbuleli Kolisi
Director
BMK ATTORNEYS
Tel: 010 591 0535 Cell: 073 090 7116 Email: mbuleli@bmkinc.co.za
Fax: 086 693 1779
Benoni Office: 59 Kempton & Rothsay Avenue, Benoni, 1501
JHB Office: Cnr Van Brandis & Albertina Sisulu Rd, Johannesburg

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From: Mbongeni Manqele [mailto:MbongeniManqele@flysaa.com]
Sent: 16 September 2016 10:11 AM
To: Mbuleli
Subject: RE: SOUTH AFRICAN AIRWAYS SOC LTD // DR DAHWA

I shall get to this now

Mbongeni Manqele | Acting General Manager Human Resources | Human Resources
Phone: +2711-978-2525 | E-Mail: MbongeniManqele@flysaa.com
6th Floor,A Block,Airways Park,OR Tambo International Airport- Johannesburg- South Africa

From: Mbuleli [mailto:mbuleli@bmkinc.co.za]
Sent: 16 September 2016 10:03 AM
To: Phumeza Nhantsi
Cc: Mbongeni Manqele
Subject: Re: SOUTH AFRICAN AIRWAYS SOC LTD // DR DAHWA

Good morning Mrs. Nhantsi and Mr. Manqele,

Thank you very much for the signed mutual separation agreement.

As you may be aware, the arbitration process is set down for Monday and no certificate of service has been issue yet and, we also await tax directive or confirmation of payment.

Kindly advise as to the current position.

Kind regards
Mbuleli

Sent from my iPhone

On 12 Sep 2016, at 4:02 PM, Phumeza Nhantsi <PhumezaNhantsi@flysaa.com> wrote:

Hi Mbo,

Please advise on the process or could you confirm that you are working on this settlement

Regards

Phumeza Nhantsi | Interim Chief Finance Officer | Finance

<image005.jpg>Mobile: 060 544 5615 | Phone: +2711-978-1736 | <image006.jpg>E-Mail: PhumezaNhantsi@flysaa.com
6th Floor, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

From: Phumeza Nhantsi
Sent: 09 September 2016 12:35 PM
To: Mbongeni Manqele
Subject: Fwd: SOUTH AFRICAN AIRWAYS SOC LTD // DR DAHWA
Importance: High

Hi Bhuti

Please advise as we need to settle

Regards

Sent from my Samsung Galaxy smartphone.

-------- Original message --------
From: Mbuleli Kolisi <mbuleli@bmkinc.co.za>
Date: 09/09/2016 09:03 (GMT+02:00)
To: Phumeza Nhantsi <PhumezaNhantsi@flysaa.com>
Subject: FW: SOUTH AFRICAN AIRWAYS SOC LTD // DR DAHWA

Dear Phumeza,

We refer to the above subject matter and our previous communications.

Our understanding is that the parties have agreed to settle the labour dispute as per the attached settlement agreement.

From the governance point of view, we understand that the GM: Human Resources has the prerogative to settle claims up to R2 Million.

Kindly confirm that all internal processes have been complied with and that SAA is in a position to request the necessary tax directive and to settle the agreed amount.

Kind regards
Mbuleli
<image006.jpg>

From: Mbuleli Kolisi [mailto:mbuleli@bmkinc.co.za]
Sent: 06 September 2016 07:53 AM
To: Phumeza Nhantsi; Musa Zwane
Subject: RE: SOUTH AFRICAN AIRWAYS SOC LTD // DR DAHWA
Importance: High

Dear Phumeza,

We refer to the above-mentioned matter.

As you are aware, the parties have been engaged on a without prejudice settlement discussions. Initially, Dr. Dahwa asked for the balance of his contract, which SAA rejected. Subsequently, he asked for 9 (nine) months, which was further rejected. He later on asked for 7 (seven) months, we which was not accepted.

In the end, the parties agreed on 6 (six) months remuneration as basis for mutual separation, as full and final settlement. The draft settlement agreement setting out terms and conditions is attached for you to consider and approve.

The employee has already signed, but that is not indicative that the settlement is final. SAA still has to confirm whether or not the attached draft settlement is acceptable in its current terms.

Kindly make time for us to discuss, should you wish to obtain advice on any of the issues.

Kind regards
Mbuleli
<image004.jpg>

From: Alex Davies [mailto:alex@jrattorneys.co.za]
Sent: 05 September 2016 09:30 AM
To: mbuleli@bmkinc.co.za
Cc: johanette@jrattorneys.co.za
Subject: SOUTH AFRICAN AIRWAYS SOC LTD // DR DAHWA
Importance: High

Dear Mr Kolisi

The above matter refers.

We have prepared a mutual separation agreement in the terms agreed upon by the parties during the course of last week.

Our client has signed same and we attach the signed document hereto for your attention and for signature.

We trust that you find the above in order and look forward to your response hereto.

Kind regards,
Alex Davies

johanette
RHEEDER
incorporated

Tel: 012 667 1583
Fax: 086 6166 312 / 012 667 2854
PO Box 208, Cornwall Hill 078
www.jrattorneys.co.za

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www.avast.com

<116091216035700923.png>

<Mutual Seperation Agreement.pdf>
<image003.jpg>
<image004.jpg>
<image001.png>

This email has been checked for viruses by Avast antivirus software.
www.avast.com

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COMMISSION OF INQUIRY INTO STATE CAPTURE

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,

SPHIWE ADDISON MADLALA

do hereby state under oath:

1. I am a forensic investigator for the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector and Organs of State ("**the Commission**").

2. Unless the context indicates otherwise, the facts contained in this affidavit are within my personal knowledge and are both true and correct.

3. The purpose of this affidavit is to record the analysis conducted on the video footage provided by the South African Broadcasting Corporation ("**SABC**") to the Commission

S.A

relating to the 20 June 2015 Youth Day event organized by the Jacob G Zuma Foundation ("**JGZ Foundation**") at the Durban International Convention Centre.

4. The Commission has been investigating a payment made by Transnet SOC Limited ("**Transnet**") to the JGZ Foundation in August 2015. In order to further those investigations, it was necessary to establish the following:

   4.1 Whether the video footage revealed any marketing material at the event showing the logo of Transnet or any other Transnet branding;

   4.2 Whether Mr Siyabonga Gama (former Group CEO of Transnet) addressed guests (including students) who attended the event; and

   4.3 Whether Mr Siyabonga Gama was seated at the main table with former President Zuma.

5. A full video coverage of the event was requested from the SABC in order to identify the investigation areas aforementioned. On Tuesday, 27 October 2020, a representative of the SABC delivered a full video coverage of the JGZ Foundation Youth Day event, held on 20 June 2015 at the Durban ICC, to the offices of the Commission. This was provided in a disk. The IT Department of the Commission extracted the video and provided me with a copy for analysis.

6. On the same date, I opened the video, identified that it was raw footage, and had not been edited. The video is in three parts; the first part is 0:42:19, the second is 0:07:00 and the third is 0:41:23.

R.A

7. I have carefully viewed the three video clips provided to the Commission by the SABC. Although the quality of the footage is not clear in some instances, I am able to state the following about the footage:

7.1 The footage does not show a full view of the room. Different parts of the room are shown in the footage including some of the attendants. In most instances, where attendants appear, the video is generally zoomed to a person seated on the table and does not show all the people seated at each table.

7.2 In instances where the podium appears, the footage shows the person(s) who addressed the event with the background of the JGZ Foundation logos appearing behind them.

7.3 The full stage, from where speakers addressed the audience, is visible on the footage. I can confirm that the only branding and logos visible on the stage are those of the Jacob Zuma Foundation. There are none of Transnet.

7.4 The footage does not show any Transnet logo or other branding anywhere at the event.

7.5 The footage shows almost half of the President's table.

7.6 At the former President's table, he was seated next to a woman whom I am unable to identify, on his left-hand side, and probably the former Premier of KZN, Mr Senzo Mchunu seat on his right-hand side.

COMMISSION OF INQUIRY INTO STATE CAPTURE

7.7 I could identify the following other persons at what appears to be the former President's table:

a) Mr Mduduzi Manana – former Deputy Minister of Education;

b) Ms Dudu Myeni – the then Chairperson of the JGZ Foundation;

c) Ms Bathabile Dlamini – former Minister of Social Development;

d) Mr Patrice Motsepe; and

e) One male person seated next to Mr Motsepe whom I am unable to identify.

7.8 I was not able to identify Mr Gama seated at what appears to be the former President's table nor anywhere else in the footage. I am able to identify Mr Gama because I have seen him before in the media.

7.9 The footage shows three guest speakers who addressed the event including the former President, Ms Duduzile Myeni and Ms Bathabile Dlamini. Another gentleman whom I cannot identify facilitated the introduction of students to the event. Some of the students appeared on the stage and *inter alia* passed their gratitude to the former President and the foundation.

7.10 The footage does not show Mr Gama addressing the event on the day.

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7.11 At the beginning of speeches delivered by the three guest speakers, they acknowledged some of the honourable guests that attended the event, including the former President, Mr Senzo Mchunu, Mr Mduduzi Manana, Ms Bathabile Dlamini and Mr Patrice Motsepe. Mr Siyabonga Gama was never introduced as a guest at the event.

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 EDENVALE on this the 30 day of October 2020 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.

SOUTH AFRICAN POLICE SERVICE
COMMUNITY SERVICE CENTRE
2020 -10- 30
EDENVALE
SOUTH AFRICAN POLICE SERVICE

7234921-2
CJ
RA Mogadima
COMMISSIONER OF OATHS

FULL NAMES: MOGADIMA Aubrey RAMAMALEDI

ADDRESS: 104 JJ7 AVENUE EDENVALE

EX OFFICIO: CJ

MHLATHUZE WATER

DOCUMENT TITLE

CODE OF CONDUCT

PURPOSE

To establish a Code of Conduct for Mhlathuze Water.

BRIEF DESCRIPTION OF CHANGE

Code of Conduct

APPROVAL SIGNATURE RECORD

Reviewer Name	Title	Signature	Date
Document Developer and Administrator	Company Secretary		18/3/08
Accepted by EXCO	Chairman		19.03.08
Approved by Board	Chairman		15/05/2008

COMMISSION OF INQUIRY INTO STATE CAPTURE

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1. PREAMBLE

Mhlathuze Water values compliance to the highest standards and standards of behaviour, over and above the requirements of commercial imperatives. Mhlathuze Water is therefore committed to achieving and adhering to the highest standards in all our relationships with our customers, stakeholders, suppliers and the communities we serve, including its employees.

This Code of Conduct is based on socially established principles of behaviour which are not in contravention of any law, are not morally suspect and which are espoused in Mhlathuze Water's values of enthusiasm, honesty, excellence, fairness, accountability and creativity & innovation.

2. OBJECTIVE

Mhlathuze Water has a responsibility to ensure that, as it strives to supply sustainable water and related services, it complies to strict behaviour in all interactions with its employees, customers, stakeholders and the communities it serves in its area of operation. It will demonstrate its commitment to organisational integrity without compromising any of the principles of good behaviour and standards which are emphasised in the King II report on Corporate Governance which prescribes that each organisation must demonstrate its commitment to an established code of ethics by:

(a) Setting acceptable standards of behaviour;
(b) Create guiding principles to support Mhlathuze Water's values which include fairness, equity, moral consistency and certainty;
(c) promoting systems and procedures which introduce, monitor and enforce its code;
(d) Communicating with, advocating and educating all employees regarding the organisations values, standards and compliance procedures;
(e) Providing, monitoring and auditing systems for reporting of unethical or risky behaviour; and
(f) Enforcing appropriate discipline with consistency and responding to offences and preventing re–occurrence of non conforming behaviour.
(g) Demonstrating commitment to and support of the principles of good corporate governance.

3. APPLICATION AND IMPLEMENTATION OF THE CODE

The code is applicable to all Mhlathuze Water Board Members and Employees:

- Board Members;
- Managers; and
- Employees

All employees and board members are the custodians of the Code of Conduct and therefore the responsibility to communicate, implement and monitor compliance with the Code is the duty of all employees, managers, board members, stakeholders, customers and suppliers.

4. ETHICS AND INTEGRITY

Ethics and integrity refer to standards of behaviour which are based on socially acceptable moral values and norms which involve the ability to distinguish between right and wrong and the commitment to do what is right and refrain from doing what it wrong, which fosters a culture of integrity and accountability. Commercial ethics are defined as observing and honouring the unwritten moral rule of not causing harm to others through unfair and uncompetitive commercial practices.

5. VALUES AND CRITICAL SUCCESS FACTORS

Mhlathuze Water understands and is committed to ensuring that it fosters partnerships with its customers and stakeholders to create a business that will remain sustainable. It will endeavour to achieve this through the institutionalisation of the values and critical success factors which underpin its strategies to enable it to be the preferred water services provider.

6. PRINCIPLES FOR MHLATHUZE WATER'S CODE OF CONDUCT

The underlying basis for Mhlathuze Water's Code of Conduct is underpinned by the Batho Pele "People First" principles which are prescribed in the public sector's Service Delivery Charter and in the millennium goals which the public sector must strive to achieve. Mhlathuze Water will display its unwavering commitment to these principles in all its activities with stakeholders, customers, suppliers and employees.

Mhlathuze Water therefore commits to:

6.1 Provide a safe and stimulating working environment that is conducive to the growth and development of its employees and which is based on the principles of fairness, courteousy and respect and will not tolerate any forms of racial or gender discrimination or sexual harassment;

6.2 Ensuring that its employees are committed, professional, honest, accountable and loyal to Mhlathuze Water in the performance of their duties and that they serve the best interests of the business in the judicious business use of Mhlathuze Water's assets, intellectual property, time and information;

6.3 Acknowledge its obligations as a good corporate citizen and show compassion for the communities it serves by actively and effectively participating in social investment initiatives and demonstrating initiatives which acknowledge and reduce the negative impact that its activities have on the natural environment and to educate and promote these ideals to its customers and suppliers;

6.4 Rigorously advance the principles of, and initiatives related to, Broad Based Black Economic Empowerment and any other economic initiatives which are intended to stimulate economic growth and development and remove inequalities resulting from unfair discrimination;

DCM

6.5 Conducting all its business in compliance within both the spirit and the letter of the applicable legal and regulatory framework and not tolerating any illegal deviations from the law such as bribery, corruption and fraud;

6.6 Acting in such a manner towards its stakeholders, customers, suppliers and employees so as to ensure that it exceed their expectations in providing good quality water and related services in a fair and equitable manner which is cost effective and efficient;

6.7 Manage its customer, stakeholder and supplier relationships in a manner that is deemed to be professional and courteous and not to engage in activities which may compromise its ability to deal with them objectively, such as by accepting gifts or favours which are inappropriate;

6.8 Not use dishonest methods of conducting business to gain a competitive edge over its competitors or any engage in underhanded behaviour to compete for business opportunities;

6.9 Maintain and provide accurate and reliable information to its customers, stakeholders, suppliers and employees which give a true reflection of its business activities in compliance to the requirements of the legal and financial reporting framework, subject to confidentiality and not providing competitors with an unfair advantage,.

7. UNETHICAL BEHAVIOUR

Mhlathuze Water acknowledges that the opportunities for unethical behaviour are immeasurable and cannot all be defined for the purposes of this Code and therefore relies on the sound judgment of its employees, customers, suppliers and stakeholders to ensure that high standards of behaviour are maintained based on good moral principles of right and wrong with sound and consistent judgment and integrity.

In situations where the choices may be ambiguous, the following guidelines must be applied when making a decision namely:

- Is the decision or action legal?
- Does the decision or action comply with Mhlathuze Water's policies and procedures?
- Will this decision or action be consistent with Mhlathuze Water's values and this Code of Ethics?
- Would Mhlathuze Water support the decision without reservation?
- Would the person concerned or Mhlathuze Water be happy for the decision or action to become public knowledge?

If any of these questions elicits the answer ***"NO"*** it is imperative that further advice be sought from a Head of Department or the CEO, or, in the case of board members, the Chairperson, to assist to confirm the correctness of the decision or action.

8. CONFLICTS OF INTEREST

Mhlathuze Water's employees have an overriding duty to act in good faith and in the best interests of Mhlathuze Water.

DCM.

8.1 A conflict of interest arises when an employee or board member has a direct or indirect interest that has the potential to interfere with their objectivity in performing their duties in the best interests of Mhlathuze Water;

8.2 An employee or board member should not use their position in Mhlathuze Water to pursue or advance their own interests or the interests of any family member, business associate, legal entity, partnership, friend or any other person to whom that employee owes any obligation or loyalty;

8.3 Employees and board members should not benefit directly or indirectly from any transaction proposed or concluded by Mhlathuze Water where that employee can influence the decision made by Mhlathuze;

8.4 Employees and board members may not personally benefiting from any opportunity which is available to Mhlathuze Water unless Mhlathuze Water has clearly and irrevocably decided against pursuing the opportunity and the opportunity has been made available to the public.

8.5 Employees and board members should not use their position in Mhlathuze Water to solicit clients for the employee's or board member's personal businesses, or any business operated by a family member, business associate, legal entity, partnership, friend or any other person to whom that employee or board member owes any obligation or loyalty;

8.6 Mhlathuze Water and its employees and board members must take all reasonable steps to prevent an actual or potential conflict of interest which could appear to interfere with the employee or board member's judgment in making decisions in Mhlathuze Water's best interest;

8.7 There are several situations which may give rise to a conflict of interest the most common of which are:

- Accepting gifts, favours or kickbacks from suppliers;
- Passing confidential information to competitors or other interested parties;
- Using privileged information inappropriately;
- Influencing Mhlathuze Water to purchase , lease or obtain goods or services from a business owned by an employee or board member's spouse, family member, business associate, legal entity, partnership, friend or any other person to whom that employee or board member owes any obligation or loyalty;
- Encouraging Mhlathuze Water to allocate funds to an institution where the employee, board member or their family member, business associate, legal entity, partnership, friend or any other person to whom that employee or board member owes any obligation or loyalty is employed or has a business interest;
- An employee or board member's participation in a decision to hire or promote a family member, business associate friend or any other person to whom that employee or board member owes any obligation or loyalty

DCM.

- Influencing or participating in a decision which will result in financial gain for an employee or board member.

8.8 If such a conflict of interest arises, it must be disclosed to Mhlathuze Water and the employee or board member may only continue to hold such a direct or indirect personal interest with the written approval of the Board.

8.9 No employee of board member may abuse their position to gain an advantage in contravention of duty, including the offering/giving/soliciting or accepting of an inducement or reward for certain improper actions and any improper approach or solicitation, either directly or through a nominee to act in any way which could be to Mhlathuze's disadvantage.

9. DISCLOSURE

9.1 Full disclosure enables all employees and board members to resolve unclear situations and provides an opportunity to dispose of conflicting interests before any difficulty can arise.

9.2 An employee or board member should immediately upon becoming aware of a conflict or potential conflict interest situation, disclose the conflict in writing to their immediate supervisor, or, in the case of board members, to the board. This requirement will be applicable even if the employee or board member becomes aware of the situation after the transaction is complete.

9.3 Where an employee or board member is in doubt about whether a conflict exists, advice should be sought immediately from a Head of Department or the CEO, or, in the case of board members, the Chairperson or Company Secretary.

9.4 An employee or board member must immediately take action to resolve the conflict or dispel any suspicion that may exist.

9.5 If an employee is concerned that another employee is in a conflict of interest situation, the employee should immediately raise the concern with the other employee and request that the conflict be declared. If the employee refuses to declare the conflict, the employee should immediately report the concern to the Head of Department, the CEO or the whistleblower's hotline.

9.6 Where an employee discloses an interest, the employee:

(a) Should not take part in the discussion of the matter or vote on any questions in respect of the matter unless the person to whom the conflict is declares confirms in writing that no conflict exist or the matter is of a trivial nature;
(b) may remain in the room, but shall not take part in the portion of the meeting during which the matter giving rise to the conflict is discussed and must leave the room prior to any vote on the matter giving rise to the conflict, if the meeting is open to the public,;

(c) should immediately leave the meeting and not return until the discussion and voting have been concluded, if the meeting is not open to the public;
(d) Should not in any way or at any time influence the discussion or the voting on any question relating to the matter giving rise to the conflict.

10. CONFIDENTIAL INFORMATION

10.1 Employees and board members must not disclose confidential information:

(i) Concerning the business of Mhlathuze Water to any third party;

(ii) Of a special, valuable or privileged nature such as technical, financial, legal and other such information which Mhlathuze Water deems to be confidential.

either during or following the termination of employment or office, unless authorised to do so by Mhlathuze Water in writing or unless required to do so by a Court or in terms of law.

10.2 Where an employee or board member is requested to make available information in terms of any law or in terms of the order of a Court, that employee shall first advise CEO of the request so as to give it opportunity to decide whether to oppose such request.

10.3. Information gained by virtue of an employee or board member's relationship with Mhlathuze Water should not be used for an employee or board member's personal gain or for the benefit of an employee or board member's relative, spouse or associates.

10.4 Confidential information excludes any information in the public domain and which the employee concerned has not released into the public domain.

11. OUTSIDE EMPLOYMENT OR ASSOCIATION

11.1 Employees who accept employment at Mhlathuze Water that could lead to a conflict of interest or a situation which may prejudice Mhlathuze Water's interests, should disclose such conflict or potential conflict.

11.2 Employees shall not engage in outside work without the prior written consent of the CEO, or, in the case of the CEO, the Chairperson of the Board.

12. CORPORATE IMAGE

Mhlathuze Water must ensure that it has a positive corporate image and reputation. To achieve this:

- employees and board members shall protect and preserve Mhlathuze Water's corporate image and not bring it into disrepute;

DCM

- employees and board members shall refrain from conducting themselves in a manner that could adversely affect Mhlathuze Water's image or reputation while executing their duties on behalf of the organisation;

- all official communication with the media regarding Mhlathuze Water related matters shall be dealt with through the CEO or the Chairperson of the Board; and

- Mhlathuze Water's logo must not be abused or misused in any way.

13. DUTY TO ACT WITH CARE AND SKILL

13.1. Mhlathuze Water employees and board members shall perform their duties diligently and shall exercise the care and skill, which can reasonably be expected of a person with his/her knowledge and experience in his/her position in Mhlathuze Water..

13.2 Employees must honour their agreed employment contracts and demonstrate a high work ethic.

13.4. Mhlathuze Water shall honour its employment contract with its employees and shall provide a working environment that will empower employees to act with care and skill.

14. GIFTS AND GRATUITIES

14.1 It is essential to achieve fair business practices that all those who associate with Mhlathuze Water as suppliers, contractors or employees have equal access to Mhlathuze Water.

14.2 No employee or board member shall without being expressly authorised to do so and disclosing it in a standard form, accept any gifts, favours or benefits other than beverages and meals attended for business purposes, tickets to events, non-cash items with a value of R 100,00 or less and reasonable promotional items such as t-shirts and calendars.

14.3 Employees and board members should not accept entertainment, gifts, or favours that create or create the perception of a favoured position for doing business with Mhlathuze Water and anyone offering such an opportunity should be requested to cease from doing so. Gifts and entertainment should only be accepted under circumstances where no sense of obligation is created.

14.4 Inappropriate gifts must be disclosed and returned to the donor.

14.5 Under no circumstance should employees and board members solicit loans, cash, securities, gifts or commission in exchange for preferential treatment.

14.6 Employees and board members are precluded from soliciting, accepting, promising or giving gifts or favours in order to secure preferential treatment for themselves or Mhlathuze Water.

DCM.

14.7 Full and immediate disclosure should be seen as an act of good faith in compliance to this Code.

14.8 In order to avoid the connotation of a bribe, employees and board members accepting or extending business courtesies must follow the prescribed guidelines in the fraud prevention policy.

15. DUTY TO REPORT DISHONEST ACTIVITIES

15.1. Employees and board members shall, as speedily as possible, report, expose and address, to management, or in the case of board members, to the board, any dishonest activities within Mhlathuze Water which may come to their attention, or report such dishonest behaviour by using the whistle blowing facility.

15.2. All reasonable suspicions of dishonest activities such as fraud, corruption and any other forms of dishonesty must be reported. The Chief Executive or, in the case of board members, the Chair of the Audit and Finance Committee, will investigate and inform the employee of the outcome of the investigation.

15.3. Employees shall not abuse the Whistle Blowing facility by intentionally making false or unfounded accusations against fellow employees or board members or any other Mhlathuze Water stakeholder, customer or supplier.

16. CORPORATE ASSETS

16.1. Employees and board members shall protect and preserve Mhlathuze Water assets.

16.2. Employees and board members shall report promptly all risk-bearing situations or activities that could harm Mhlathuze Water's assets or its employees.

16.3 Mhlathuze Water requires all employees to obtain approval for the use or sale of its assets. However, an employee shall not purchase an asset if the employee is directly involved in their official capacity in the sale or purchase of the property.

16.4 The provisions for the disposal of assets as set out in the Supply Chain Management Policy will be applicable when disposing of Mhlathuze Water assets.

16.5 Employees and board members shall not use any asset of Mhlathuze Water for personal use without the prior written consent of the CEO, or, in the case of the CEO and board members, by the Chairperson of the Board.

17. EQUITY

17.1. Mhlathuze Water, as the employer, and its employees shall refrain from any form of unfair discrimination.

DCM.

17.2. Mhlathuze Water, as the employer, and its employees shall desist from any form of nepotism and undue favouritism.

18. RELATIONSHIPS WITH OTHER EMPLOYEES

18.1. Employees and board members must treat one another and conduct themselves with fairness, courtesy, decency and sensitivity at all times.

18.2. Mhlathuze Water and its employees must respect, encourage and support diversity and avoid any unfair discrimination.

18.3. Employees and board members must refrain from spreading false or malicious rumours and gossip about Mhlathuze Water and one another.

19. RELATIONSHIP WITH SUPPLIERS

19.1. Mhlathuze Water and its employees and board members shall accord all suppliers and service providers a fair opportunity to compete for business in terms of the Supply Chain Management Policy and in support of existing Government policies.

19.2. No employee or board member shall engage in any form of collusion or unfair business practice with or by suppliers, customers or stakeholders.

20. RELATIONSHIP WITH CUSTOMERS AND SOCIETY

20.1 Employees and board members shall pay due regard to environmental and safety considerations in and around the workplace, and promptly report any potential environmental or safety risks.

20.2 As a public utility and in order to discharge its duty to its customers, Mhlathuze Water and its employees, shall, within their scope of work and authority:

- market Mhlathuze Water services accurately and disclose all relevant information regarding its products which customers cannot reasonably learn for themselves;
- render services that at least meet the customers' contractual or reasonable expectations;
- ensure compliance with set service quality standards and act promptly on complaints lodged by customers regarding the service;
- treat all customers with respect, sensitivity and courtesy;
- reduce inefficiencies with a view to obtaining the greatest possible savings for the customer.

20.3 As a public utility and in order to discharge its duty to its stakeholders, Mhlathuze Water shall charge its customers a fair price for its services.

21. COMPLIANCE TO THE CODE OF CONDUCT

Mhlathuze Water will institutionalize its code of ethics through the values which it subscribes to in its strategic compass and will monitor compliance with the Code of Conduct as far as possible through internal and external audits and the Whistle Blowers reports. Mhlathuze Water will create an environment that encourages compliance with the Code of Conduct and will protect those who report unethical practices.

Breaches of the code of conduct will result in disciplinary action being taken in accordance with Mhlathuze Water's Disciplinary Code and Procedures and other related policies. Legal action may also be initiated where there is good cause to believe that there has been a breach of the Code of Conduct. Mhlathuze Water reserves the right to institute control measures that will serve to prevent a re-occurrence of the breach and may terminate any relationships which fail to meet the expectations set out in the code.

22. RESPONSIBILITIES

POSITION TITLE	TASK DESCRIPTION
Board	Approve the charter
HR & Remuneration Committee	Recommend the charter to Board
Document Owner	Develop, revise & enforce this charter
Corporate Services Manager	Custodian and Administrator of the charter
Employees & Board	Ensure adherence to the principles of this charter

23. APPENDIX "A"

DECLARATION FORM

DECLARATION FORM

The declaration form is as follows :

I, ... , employee number ..... acknowledge that I have read and considered the Code of Conduct for employees of Mhlathuze Water and agree to conduct myself in accordance with the Code of Conduct.

_____

(Signature)

Affidavit: Commission of Enquiry into State Capture
Tracking reference: SPS12/0251/AK

I Johannes Sengwane **ID 6004095946089** hereby declare under oath as follows:

I am employed by the South African Airways ("SAA") Situated at Airways Park, Jones Road, Kempton Park. I hold the position of Head of IT Governance within the Information Technology Division of SAA.

I hereby confirm that documents and emails discovered on the SAA email archiving system (Mimecast) is in its original form and content.

I also confirm that I used Mimecast Administrator login credentials to log into the system in order to perform the key words searches as per the search criteria from the Zondo Commission summons to SAA.

Logging, Auditing and Visibility

The administrator consol provide the following information archiving features and audit trails:

- All administrator actions within the Mimecast administrator console are logged and retained in the service for the retention period of the customer's Mimecast account. The logs include the administrator's username, the source IP address, and summary of the actions executed.
- All logs are immutable and tamper-proof. This includes all access to the archive, whether from an end user or an administrator. For archive access the system records the exact search criteria, the individual messages that were viewed and whether the email content (or just the header information) was viewed.
- The system also records whether the archive access was part of an eDiscovery case.
- All administrator actions are recorded, including the authentication, the service they accessed and their source IP address.
- Mimecast combines Mimecast Email Security and Mimecast Email Continuity

Having applied the abovementioned procedures, I managed to uplift the following documents sequentially as per SAA Zondo Commission Summon: -

1. **Any and all SAA Board minutes and recordings of discussions at Board meetings dealing with the reimbursement payment of R269 416.20 on or about 25 January 2016 to Ms Duduzile Myeni for lawyer's fees.**

Process followed to discover evident 1, above :-

I configured a key word search within Mimecast, SAA email archiving compliance platform from January 2014 to 31 December 2019.

The Search results:-

Refer Annexure: JS1:- Copy of email

I discovered the email communication:-

From: Sandile Dlamini

Sent: 30 October 2014 09:18 AM

To: Duduzile Myeni; 'Tony Dixon'; 'johnt@nepad.org'; Yakhe Kwinana; 'yakhe@kegroup.co.za'; Monwabisi Kalawe; Wolf Meyer

Subject: Notice for a Special Board Meeting -

The Search results:-

Refer Annexure: JS2:- Copy of email

From: Sandile Dlamini

Sent: 30 October 2014 04:49 PM

To: Duduzile Myeni; 'Tony Dixon'; 'johnt@nepad.org'; Yakhe Kwinana; Wolf Meyer

Subject: RE: Decision Records

a) **Refer Annexure: JS2.: Copy of email**
b) **Refer Annexure: JS2.1:-Decision Record suspension of Group CEO**
c) **Refer Annexure: JS2.2:-Decision Record secondment of Barry Parsons to the Chairperson office.**
d) **Refer Annexure: JS2.3:- Decision Record External Investigator into allegations against CEO**
e) **Refer Annexure: JS2.4:- Decision Record Appointment of Acting Group CEO**

2. **Any and all Board resolutions reflecting a decision of the SAA Board to approve the reimbursement payment of R269 416.20 on or about 25 January 2016 to Ms Duduzile Myeni for lawyer's fees.**

Process followed to discover evident 1, above :-

I configured a key word search within Mimecast, SAA email archiving compliance platform from January 2014 to 31 December 2019.

The Search results:-

Refer Annexure: JS3:- Copy of email

From: Nonka Ndlovu [mailto:nndlovu@werksmans.com]

Sent: 04 September 2014 03:51 PM

To: myeniduduzile@yahoo.com; dudumyeni@telkomsa.net

Cc: Corlett Manaka; Dudu Langa

Subject: SOUT0004.26

f) Refer Annexure: JS3.1:- Werkmans Statement
g) Refer Annexure: JS3.2:- Werkmans Tax Invoice

The Search results:-

Refer Annexure: JS4:- Copy of email

From: Dudu M [mailto:dudumyeni@telkomsa.net]

Sent: 17 September 2014 15:29 PM

To: Nonka Ndlovu

Subject: RE: SOUT0004.26

3. **Any and all SAA Board minutes and recordings of discussions at Board meetings dealing with the reimbursement payment of R269 416.20 on or about 25 January 2016 to Ms Duduzile Myeni for lawyer's fees.**

4. **Any and all Board resolutions reflecting a decision of the SAA Board to approve the reimbursement payment of R269 416.20 on or about 25 January 2016 to Ms Duduzile Myeni for lawyer's fees.**

Process followed to discover evident 1, above :-

I configured a key word search within Mimecast, SAA email archiving compliance platform from January 2014 to 31 December 2019.

The Search results:-

Refer Annexure: JS8:- Copy of email

-------- Original message --------
From: Nick Linnell <nickl@theprojectoffice.com>
Date: 2015/12/09 16:18 (GMT+02:00)
To: Yakhe Kwinana <yakhe@kwinana.co.za>
Subject: Chairpersons expenses

j) Refer Annexure: JS8.1:- Myeni costs

The Search results:-

Refer Annexure: JS9:- Copy of email

From: Yakhe Kwinana2
Sent: 09 December 2015 07:48 PM
To: Phumeza Nhantsi; Musa Zwane; Ruth Kibuuka
Subject: Fwd: Chairpersons expenses

Refer Annexure: JS5:- Copy of email

From: Nonka Ndlovu [mailto:nndlovu@werksmans.com]

Sent: 25 September 2014 02:40 PM

To: Duduzile Myeni

Cc: Ntuthu (Mabutyana) Twala

Subject: RE: SOUT0004.26 [IWOV-Litigation.FID266393]

Refer Annexure: JS6:- Copy of email

From: Ntuthu (Mabutyana) Twala

Sent: 10 October 2014 12:46 PM

To: Dikeledi Raboroko

Cc: nndlovu@werksmans.com

Subject: FW: SOUT0004.26 [IWOV-Litigation.FID266393]

Refer Annexure: JS7:- Copy of email

From: Dikeledi Raboroko

Sent: 2015/12/07 10:45 AM

To: Duduzile Myeni; Chairperson chairperson@flysaa.com; 'dudum@jacobzumafoundation.org.za' (dudum@jacobzumafoundation.org.za)

Cc: Ruth Kibuuka <RuthKibuuka@flysaa.com>

Subject: RE: SOUT0004.26 [IWOV-Litigation.FID266393]

h) **Refer Annexure: JS7.1.:- Werkmans Statement**
i) **Refer Annexure: JS7.2:- Werkmans Tax Invoice**

The Search results:-

Refer Annexure: JS10:- Copy of email

From: Phumeza Nhantsi
Sent: 2016/01/25 09:52 AM
To: Ruth Kibuuka; Sivuyile Maso
Subject: Fwd: Chairpersons expenses

k) Refer Annexure: JS10.1:-Copy Myeni costs

The Search results:-

Refer Annexure: JS11:- Copy of email

From: Hester Kleinhans
Sent: 2016/01/15 01:50 PM
To: Ruth Kibuuka
Cc: Phumeza Nhantsi
Subject: Reimbursement

The Search results:-

Refer Annexure: JS12:- Copy of email

From: Ruth Kibuuka
Sent: 2016/01/15 01:50 PM
To: Hester Kleinhans
Cc: Phumeza Nhantsi
Subject: Reimbursement

COMMISSION OF INQUIRY INTO STATE CAPTURE

The Search results:-

Refer Annexure: JS13:- Copy of email

Reimbursement

HK Hester Kleinhans
To Ruth Kibuuka
Cc Phumeza Nhantsi

Reply | Reply All | Forward | ...
Fri 2016/01/15 01:50 PM

Dear Ruth,

I've been liaising with Phumeza, could you kindly provide an excerpt of the minutes of the board's approval of a refund to the Chair (R269,000) incurred for legal fees in 2014?

Regards

Hester Kleinhans | Manager Accounts Payable / Travel Management | Group Accounting

Mobile: +2783-255-4410 | Phone: +2711 978-1296 | Fax: +2711-978-1007 | E-Mail: HesterKleinhans@flysaa.com
Room 413, Floor 4, Block C, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

5. **The memorandum prepared by Werksmans Attorneys ("the Werksmans memorandum") for the Chairperson of SAA and dated 4 April 2014.**

I configured a key word search within Mimecast, SAA email archiving compliance platform from January 2014 to 31 December 2019.

Results:- The search yielded no results on the above key word

6. **The written advice of Cassim SC related to the Werksmans memorandum.**

I configured a key word search within Mimecast, SAA email archiving compliance platform from January 2014 to 31 December 2019.

Results:- The search yielded no results on the above key word

7. **Any and all correspondence (including emails) in terms of which the Werksmans memorandum was shared with the Minister of Public Enterprises.**

COMMISSION OF INQUIRY INTO STATE CAPTURE

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NORKEM PARK
2020 -10- 30
CLIENT SERVICE CENTRE
SOUTH AFRICAN POLICE SERVICE

I configured a key word search within Mimecast, SAA email archiving compliance platform from January 2014 to 31 December 2019.

Results:- The search yielded no results on the above key word

8. **Any and all minutes of SAA Board meetings at which the Werksmans memorandum was discussed.**

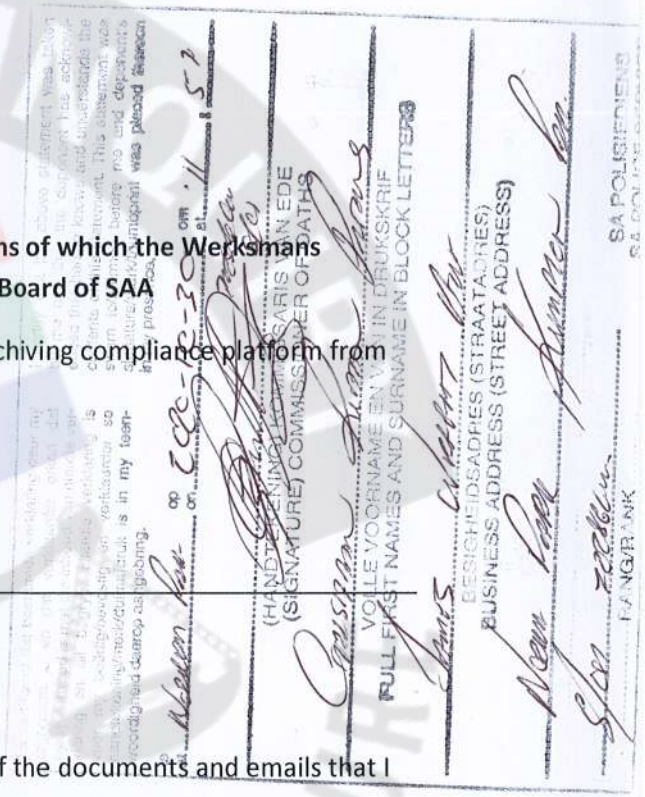
I configured a key word search within Mimecast, SAA email archiving compliance platform from January 2014 to 31 December 2019.

Results:- The search yielded no results on the above key word

9. **Any and all correspondence (including emails) in terms of which the Werksmans memorandum was circulated to the members of the Board of SAA**

I configured a key word search within Mimecast, SAA email archiving compliance platform from January 2014 to 31 December 2019.

Results:- The search yielded no results on the above key word



I know and understand the content of this affidavit.

I don't have any having personal knowledge of the contents of the documents and emails that I discovered using Mimecast SAA emails archiving portal;

I have no objection to taking the prescribed oath;

I consider the oath to be binding on my conscience.

Signed at Nouveau Park **on** 30 **of October 2020.**

Deponent Johannes Sengwane

Annexure: JS1

From: Sandile Dlamini
Sent: 30 October 2014 09:18 AM
To: Duduzile Myeni; 'Tony Dixon'; 'johnt@nepad.org'; Yakhe Kwinana; 'yakhe@kegroup.co.za'; Monwabisi Kalawe; Wolf Meyer
Subject: Notice for a Special Board Meeting -

Dear Board members

Kindly take notice that a special Board meeting will held today, **30 October 2014, at SAA Airways Park, 6th Floor Board Room, at 12h00.** The meet

1. Discussion on suspension of the Chief Executive Officer.
2. Ratification of appointment of external investigator.
3. Any other business.

Due to the fact that Mr Dixon is not allowed to fly for medical reasons, he will be linked via Telecon.

Regards

Sandile Dlamini | Company Secretary | Legal

Mobile: +2783-266-3634 | Phone: +2711-978-6553 | E-Mail: SandileDlamini@flysaa.com
Executive Office, 6th Floor, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

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COMMISSION OF INQUIRY STATE CAPTURE

Annexure: JS2

Decision Records

Sandile Dlamini <SandileDlamini@flysaa.com>
To Duduzile Myeni; Tony Dixon; johnt@nepad.org; Yakhe Kwinana; Wolf Meyer

Decsion Record SUSPENSION OF GROUP CEO.Final.docx
.docx File

Decision Record. EXTERNAL INVESTIGATOR INTO ALLEGATIONS AG
.docx File

Decision Record SECONDMENT OF BARRY PARSONS TO THE CHAIRPERSONS OFFICE.Final.docx
.docx File

Decision Record APPOINTMENT OF ACTING GROUP CEO.Final.docx
.docx File

Dear Board members

I have further corrected the name 'Werkmens" to read "Werkmans".

Thanks and regards

Sandile Dlamini | Company Secretary | Legal

Mobile: +2783-256-3634 | Phone: +2711-978-6553 | E-Mail: SandileDlamini@flysaa.com
Executive Office, 6th Floor, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

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2020 -10- 30
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SOUTH AFRICAN POLICE SERVICE

Annexure: JS3

COMMISSION OF INQUIRY INTO STATE CAPTURE

JS2.4

SOUTH AFRICAN AIRWAYS
A STAR ALLIANCE MEMBER

SOUTH AFRICAN AIRWAYS SOC LIMITED (THE COMPANY)

Registration Number 1997/022444/30

DECISION RECORD OF THE BOARD

Date: 30 OCTOBER 2014

Title of Proposal: APPOINTMENT OF ACTING GROUP CHIEF EXECUTIVE OFFICER
Project Owner: SAA Board
Project Description / Purpose: To request the Board to appoint an Acting Group Chief Executive Officer.
Board of Directors Resolution: The Board of Directors **RESOLVED** that Mr Nico Bezuidenhout be and is hereby appointed as the Acting Group Chief Executive Officer with immediate effect.
Approved [X] **Referred Back for Rework** [ ] **Declined** [ ]
Conditions / Follow-up Actions:

Members:	**Signature:**

COMMISSION OF INQUIRY INTO STATE CAPTURE

1. Ms Duduzile Myeni	
2. Dr JE Tambi	
3. Mr Monwabisi Kalawe	
4. Ms Yakhe Kwinana	
5. Mr AD Dixon	
6. Mr Wolf Meyer	

COMMISSION OF INQUIRY INTO STATE CAPTURE

JS2.3

SOUTH AFRICAN AIRWAYS SOC LIMITED (THE COMPANY)

Registration Number 1997/022444/30

DECISION RECORD OF THE BOARD

Date: 30 OCTOBER 2014

Title of Proposal: APPOINTMENT OF EXTERNAL INVESTIGATOR TO INVESTIGATE ALLEGATIONS MADE AGAINST THE GROUP CEO AND THE COMPANY

Project Owner: SAA Board

Project Description / Purpose:

To request the Board to appoint an external investigator to conduct an investigation into allegations made against the Group CEO and the Company.

Board of Directors Resolution:

The Board of Directors **RESOLVED** to:

1. appoint Mr J. van Wyk of Werkmans Attorneys to investigate allegations made against the Group Chief Executive Officer.
2. approve deviation from the requirements of SAA's Procurement Policies and Procedures given the target to complete the investigation within 30 days set by the Board (urgency).
3. authorise the Sub-committee established to oversee the investigation, comprising Mr Tony Dixon and Dr John Tambi, to approve the scope of the investigation which will include, but not limited to, the following allegations:
   a) Breakdown in Corporate Governance;
   b) Maladministration;
   c) Baggage-wrapping contract;
   d) Non-compliance with the Companies Act which emerged from enquiries by Companies Intellectual Property Commission (CIPC);
   e) Appointment of McKinsey;
   f) Grading of the Job of the Manager in the CEO's office;
   g) Acquisition of stake in the Senegal Airline;
   h) Late renewal of the RMB finance facility; and
   i) Changing of the Board resolution regarding the number of aircraft to be financed by Pembroke.

Approved [X] **Referred Back for Rework** [ ] **Declined** [ ]

Conditions / Follow-up Actions:

Members:	**Signature:**
1. Ms Duduzile Myeni	
2. Dr JE Tambi	
3. Mr Monwabisi Kalawe	
4. Ms Yakhe Kwinana	
5. Mr AD Dixon	
6. Mr Wolf Meyer	

DD34-DCM-1879

JS2.2

SOUTH AFRICAN AIRWAYS

A STAR ALLIANCE MEMBER

SOUTH AFRICAN AIRWAYS SOC LIMITED (THE COMPANY)

Registration Number 1997/022444/30

DECISION RECORD OF THE BOARD

Date: 30 OCTOBER 2014

Title of Proposal: SECONDMENT OF MR BARRY PARSONS TO THE OFFICE OF THE CHAIRPERSON
Project Owner: SAA Board
Project Description / Purpose: To request the Board to approve the secondment of Mr Barry Parson to the Office of the Chairperson as Manager in the Chairperson's Office.
Board of Directors Resolution: The Board of Directors **RESOLVED** that the secondment of Mr Barry Parson to the Office of the Chairperson as the Manager in the Chairperson's Office be approved.
Approved [X] **Referred Back for Rework** [ ] **Declined** [ ]
Conditions / Follow-up Actions:

COMMISSION OF INQUIRY INTO STATE CAPTURE

Members:	Signature:
1. Ms Duduzile Myeni	
2. Dr JE Tambi	
3. Mr Monwabisi Kalawe	
4. Ms Yakhe Kwinana	
5. Mr AD Dixon	
6. Mr Wolf Meyer	

COMMISSION OF INQUIRY INTO STATE CAPTURE

JS3

From: Nonka Ndlovu [mailto:nndlovu@werksmans.com]
Sent: 04 September 2014 03:51 PM
To: myeniduduzile@yahoo.com; dudumyeni@telkomsa.net
Cc: Corlett Manaka; Dudu Langa
Subject: SOUT0004.26

Success is finding the right specialist.

> Keep us close

A member of the LEX Africa legal network



This email and its attachments are private, confidential, may be subject to legal professional privilege and are only for the use of the intended recipient.

Dear Ms D Myeni

This is a courteous follow up and reminder of the balance still owing on your account,

I have attached the statement of account with us for ease of reference.

For any further assistance or queries, do not hesitate to contact me.

Kind Regards

WERKSMANS
ATTORNEYS
A member of the LEX Africa legal network

Nonka Ndlovu
Credit Controller
T: +27 11 535 8353 | F: +27 11 535 600 | nndlovu@werksmans.com

Werksmans Attorneys
155 5th Street, Sandton, Johannesburg, 2196
Private Bag 10015, Sandton, 2196, South Africa
T: +27 11 535 8000 | F: +27 11 535 8600 | www.werksmans.com

SUID-AFRIKAANSE POLISIEDIENS
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Annexure: JS4

DD34-DCM-1881

DD34-DCM-1882

JS3.1

WERKSMANS
ATTORNEYS

STATEMENT OF ACCOUNT

Johannesburg Office
155 5th Street
Sandton 2196 South Africa
Private Bag 10015
Sandton 2146
Docex 111 Sandton
Tel +27 (0)11 535 8000
Fax +27 (0)11 535 8600
www.werksmans.com
debtors@werksmans.com
Werksmans Inc
Reg. No. 1990/007215/21
VAT No. 4520107568

SOUTH AFRICAN AIRWAYS (PTY) LTD
ROOM 500, E BLOCK
AIRWAYS PARK
1 JONES ROAD
JOHANNESBURG INTERNATIONAL AIRPORT GP
REPUBLIC OF SOUTH AFRICA

YOUR REFERENCE:
OUR REFERENCE: **SOUT0004**
MATTER NAME: **VARIOUS MATTERS FOR SOUTH AFRICAN AIRWAYS (PTY) LTD**

DATE: **25 SEP 2014**
MATTER: **SOUT0004 (CONS)**

PLEASE BE ADVISED, WERKSMANS ATTORNEYS HAS NOT CHANGED BANKING DETAILS

CLIENT TRANSACTIONS BY BILL GROUP UP TO AND INCLUDING SEP 2014

Date	Our Ref.	Fee Earner	Description	Amount (ZAR)	Balance (ZAR)
25 MAY 2014	SOUT0004.26	CMM021	INVOICE No. 473471	269,416.20	269,416.20
			25 Jun 2014 - Fund applied from trust account No. 1552778	-194,573.14	74,843.06

AGE	Apr 2014+	May 2014	Jun 2014	Jul 2014	Aug 2014	Sep 2014	Total Due
ZAR	0.00	74,843.06	0.00	0.00	0.00	0.00	**74,843.06**

CREDIT FUNDS TRANSACTION DETAILS FOR PERIOD SEP 2014 TO SEP 2014

Date	Our Ref.	Fee earner	Description		Unapplied Cash	Available Trust	Reserved Trust
			BALANCE B/FWD FROM SEP 2014	ZAR	0.00	4,504.89	0.00
			CLOSING BALANCE FOR SEP 2014	ZAR	0.00	4,504.89	0.00

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SOUTH AFRICAN POLICE SERVICE

Remittance Advice

Payment of this account may be made by post at your own risk to the above correspondence address or by direct deposit into our bank account at:
Standard Bank, Sandton, South Africa
Branch Code 01-92-05, Swift Code SBZAZAJJ
Account 022 687 955 **Reference** SOUT0004

Client Code	Matter
SOUT0004	SOUT0004 (CONS)
Total Due	**Amount Paid**
R74,843.06	

DD34-DCM-1883

JS3.2

WERKSMANS
ATTORNEYS

TAX INVOICE

Johannesburg Office
155 5th Street
Sandton 2196 South Africa
Private Bag 10015
Sandton 2146
Docex 111 Sandton
Tel +27 (0)11 535 8000
Fax +27 (0)11 535 8600
www.werksmans.com
debtors@werksmans.com
Werksmans Inc
Reg. No. 1990/007215/21
VAT No. 4520107568

SOUTH AFRICAN AIRWAYS (PTY) LTD
ROOM 500, E BLOCK
AIRWAYS PARK
1 JONES ROAD
JOHANNESBURG INTERNATIONAL AIRPORT GP
REPUBLIC OF SOUTH AFRICA

YOUR REFERENCE:
OUR REFERENCE: **CORLETT M. MANAKA**
YOUR VAT NO: **4260170990**
MATTER NAME: **CHAIRPERSON SAA BOARD**

DATE: **25 MAY 2014**
MATTER: **SOUT0004.26**
INVOICE: **473471**

PLEASE BE ADVISED, WERKSMANS ATTORNEYS HAS NOT CHANGED BANKING DETAILS

Code	Item	Amt Ex VAT (ZAR)	VAT %	VAT (ZAR)	Total (ZAR)
FEES	TO OUR FEE AS PER ATTACHED MEMORANDUM	216,330.00	14	30,286.20	246,616.20
ADV	ADV N A CASSIM; INVOICE#: 5471; DATE: 29/04/2014	20,000.00	14	2,800.00	22,800.00
	INVOICE TOTAL (ZAR)	236,330.00		33,086.20	269,416.20

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SOUTH AFRICAN POLICE SERVICE

Remittance Advice - This invoice is payable on presentation
Payment of this account may be made by post at your own risk to the above correspondence address or by direct deposit into our bank account at:
Standard Bank, Sandton, South Africa
Branch Code 01-92-05, Swift Code SBZAZAJJ
Account 022 687 955 **Reference** SOUT0004.26

Invoice No	Matter
473471	SOUT0004.26
Invoice Amount	**Amount Paid**
R269,416.20	

COMMISSION OF INQUIRY INTO STATE CAPTURE

DD34-DCM-1884

J54

From: Dudu M [mailto:dudumyeni@telkomsa.net]
Sent: 17 September 2014 15:29 PM
To: Nonka Ndlovu
Subject: RE: SOUT0004.26

Dear Nonka
I hope you are well
We shall effect payment in a few days
Thanks
Dudu

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SOUTH AFRICAN POLICE SERVICE

COMMISSION OF INQUIRY STATE CAPTURE

From: Nonka Ndlovu [mailto:nndlovu@werksmans.com]
Sent: 25 September 2014 02:40 PM
To: Duduzile Myeni
Cc: Ntuthu (Mabutyana) Twala
Subject: RE: SOUT0004.26 [IWOV-Litigation.FID266393]

Success is finding the right specialist.

> Keep us close

A member of the LEX Africa legal network

WERKSMANS ATTORNEYS

This email and its attachments are private, confidential, may be subject to legal professional privilege and are only for the use of the intended recipient.

Dear Ms Myeni

This is a courteous follow up and reminder for the below and above attached,

As per your email dated as per below, we still have not yet received the payment,

May you please send us the pop if already remitted.

Kind Regards.

WERKSMANS ATTORNEYS
A member of the LEX Africa legal network

Nonka Ndlovu
Credit Controller
T: +27 11 535 8353 | F: +27 11 535 600 | nndlovu@werksmans.com

Werksmans Attorneys
155 5th Street, Sandton, Johannesburg, 2196
Private Bag 10015, Sandton, 2196, South Africa
T: +27 11 535 8000 | F: +27 11 535 8600 | www.werksmans.com

Annexure: JS5

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STATE CAPTURE COMMISSION OF INQUIRY

Annexure: JS6

From: Ntuthu (Mabutyana) Twala
Sent: 25 September 2014 02:45 PM
To: Dikeledi Khumalo
Cc: nndlovu@werksmans.com
Subject: FW: SOUT0004.26 [IWOV-Litigation.FID266393]

More information on what I have just send...

Regards

Ntuthu Twala | Finance Officer | Legal

Phone: +2711-978-5114 | Fax: 0866376507 | E-Mail: NtuthuTwala@flysaa.com
Room 511, Floor 5, Block E, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

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COMMISSION OF INQUIRY INTO STATE CAPTURE

Annexure: JS7

FW: SOUT0004.26 [IWOV-Litigation.FID266393]

DR Dikeledi Raboroko <DikelediRaboroko@flysaa.com>
To Duduzile Myeni; Chairperson; 'dudum@jacobzumafoundation.org.za' (dudum@jacobzumafoundation.org.za)
Cc Ruth Kibuuka

CMS_SOUT0004C6C4.pdf .pdf File
CMS_SOUT00045BB4.pdf .pdf File

Dear Chair

Kindly find accompanying as requested.

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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SOUTH AFRICAN POLICE SERVICE

COMMISSION OF INQUIRY STATE CAPTURE

Annexure: JS8

-------- Original message --------
From: Nick Linnell <nickl@theprojectoffice.com>
Date: 2015/12/09 16:18 (GMT+02:00)
To: Yakhe Kwinana <yakhe@kwinana.co.za>
Subject: Chairpersons expenses

Dear Yakhe
The Chair asked me to forward to you for your consideration, her claim for a refund of costs incurred in support of her duties as a director.
Kind regards
Nick

Nick Linnell

The PROJECT Office

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 | Plattekloof 3 | 7500
Directors: N H Linnell| M Green
Postal Add PO Box 15813 | Panorama | 7506

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COMMISSION OF INQUIRY INTO STATE CAPTURE

Annexure: JS9

From: Yakhe Kwinana2
Sent: 09 December 2015 07:48 PM
To: Phumeza Nhantsi; Musa Zwane; Ruth Kibuuka
Subject: Fwd: Chairpersons expenses

Sent from my Samsung device

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SOUTH AFRICAN POLICE SE

Annexure: JS10

COMMISSION OF INQUIRY INTO STATE CAPTURE

JS10

FW: Chairpersons expenses

Reply | Reply All | Forward | ...

Mon 2016/01/25 09:52 AM

PN Phumeza Nhantsi <PhumezaNhantsi@flysaa.com>
To Ruth Kibuuka; Sivuyile Maso

Myeni costs - Copy.pdf - Adobe Acrobat Pro.pdf
253 KB

Good day team,

Attached is the write up relating to costs that were paid by the Chairman of the Board on behalf of SAA. I have done the verifying and the audit on the payment and I am happy that the payment be re-imbursed to the Chairman. Could you please prepare a resolution and we might need a round robin on this as it is stipulated in the write up. It is stipulated in the write up that the Chaiperson of the Audit Comm will sumbit to the board for approval. And based on the information that I received this was approved by the board but now I just need the resolution that states that

Regards

Phumeza Nhantsi | Interim Chief Financial Officer | Finance

Phone: +2711-978-1736 | E-Mail: PhumezaNhantsi@flysaa.com
6th Floor, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

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COMMISSION OF INQUIRY INTO STATE CAPTURE

Is10.1

In this instance the chairperson sought the advice of Werksmans attorneys in respect of the performance of the board and her bona fide belief that the board was not adhering to the normal prescripts of good governance.

Subsequent action by the then Minister to remove members of the Board , corroborated the judgement of the Chairperson seeking external legal opinion.

Having acting in her capacity as a director and incurred costs that were for the benefit of the company, the chairperson is lawfully entitled to recover the same from the Company.

The expenditure was in the best interests of the company. The costs are reasonable in the circumstances.

5. Request

The chairperson of the audit and risk board committee is requested to consider the application for reimbursement of legal expenses incurred by the Chairperson and if considered appropriate to then submit to the board for final consideration. It is also suggested that the Minister be informed of the reimbursement in the event that it is approved.

DC Myeni

Chairperson

.../attached invoices and statement of Werksmans attorneys

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COMMISSION OF INQUIRY INTO STATE CAPTURE

1

DD34-DCM-1892

JS10.1

SUID-AFRIKAANSE POLISIEDIENS
NORKEM PARK
2020 -10- 30
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SOUTH AFRICAN POLICE SERVICE

Application for reimbursement of legal expenses incurred in furtherance of Directors duties

1. Background

The Companies Act provides that a Director is entitled to seek external professional advice in support of fulfilling his/her duties.

Where circumstances are such that internal advice is inappropriate the director is entitled to seek the professional advice at the cost of the company.

2. Advice on Board of directors behaviour and performance

During 2014, the SAA Board was wracked with internal conflict in which elements of the board were aligned with elements of the executive. This led to a period where the board was dysfunctional and an impasse had been created.

The Chairperson, Ms Myeni, considered that members of the board were obstructing the investigation of allegations of wrongdoing and in particular against the then SAA CEO, Mr Kalawe.

Notwithstanding numerous attempts to seek the Board's intervention, the Minister intervention and the auditor General and public Protector's intervention, the chairperson considered it her obligation to seek external legal advice as to her duties in the face of numerous allegations that required deliberation and action by the board.

The Chairperson then approached Werksmans attorneys.

As a result Werksmans considered the information provided by the Chairperson and compiled an memorandum which in a legal and structured manner documented the allegations and made recommendations regarding the resolution of these.

The memorandum was submitted to the board and the Minister.

3. Consequence of the advice provided

As a result of this intervention, the minister met with members of the board and the executive. Subsequent to that, the Minister acting in terms of the Companies Act removed six members of from the board. The board then further considered the memorandum provided by Werksmans and resolved that an independent forensic enquiry conducted by ENS Forensics be conducted into allegations against the CEO.

As a result of that investigation, the board resolved to institute disciplinary hearing against the CE on grounds of serious misconduct. This culminated in Mr Kalawe resigning.

4. Justification

In terms of S76 of the Companies Act, a director is required to exercise independent discretion and act in good faith, in the best interests of the Company and in doing so is entitled to rely on legal counsel and other professional persons for advice.

Annexure: JS11

From: Hester Kleinhans
Sent: 15 January 2016 01:50 PM
To: Ruth Kibuuka
Cc: Phumeza Nhantsi
Subject: Reimbursement

Dear Ruth,

I've been liaising with Phumeza, could you kindly provide an excerpt of the minutes of the board's approval of a refund to the Chair (R269,000) incurred for legal fees i

Regards

Hester Kleinhans | Manager Accounts Payable / Travel Management | Group Accounting

Mobile: +2783-255-4410 | Phone: +2711 978-1296 | Fax: +2711-978-1007 | E-Mail: HesterKleinhans@flysaa.com
Room 418, Floor 4, Block C, Airways Park, OR Tambo International- Johannesburg- SOUTH AFRICA

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DD34-DCM-1893

COMMISSION OF INQUIRY INTO STATE CAPTURE

Annexure: JS12

RE: Reimbursement



Ruth Kibuuka
To Hester Kleinhans
Cc Phumeza Nhantsi

Dear Hester,

I will look it up and advise.

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

SUID-AFRIKAANSE POLISIEDIENS
NORKEM PARK
2020 -10- 30
CLIENT SERVICE CENTRE
SOUTH AFRICAN POLICE SERVICE

COMMISSION OF INQUIRY INTO STATE CAPTURE

Annexure: JS13

Reimbursement

Hester Kleinhans
To Ruth Kibuuka
Cc Phumeza Nhantsi

Dear Ruth,

I've been liaising with Phumeza, could you kindly provide an excerpt of the minutes of the board's approval of a refund to the Chair (R269,000) incurred for legal fee

Regards

Hester Kleinhans | Manager Accounts Payable / Travel Management | Group Accounting

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DELIVERED BY EMAIL

The Chairperson – SAA Board
Attention: Ms Duduzile Myeni

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4 April 2014

Dear Sirs

ALLEGED IRREGULARITIES – SOUTH AFRICAN AIRWAYS SOC LIMITED

1 The abovementioned matter refers.

2 We confirm your instructions to us in your capacity as the Chairperson of the South African Airways SOC Limited ("SAA") Board ("the Board"), to advise you on your powers, rights and responsibilities as Chairperson of the Board.

3 The advice sought by yourself as instructed, is as a result of the various allegations of irregularities/wrong-doing by the SAA management, namely:

3.1 Baggage wrapping contract

3.1.1 In the latter months of 2013, SAA executives initiated a project for plastic wrapping baggage for all passengers leaving OR Tambo.

3.1.2 During this process of evaluation the Bid Evaluation Committee Public finance Management Act ("PFMA") required adjudication process committee) determined that the project not proceed.

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Directors DG Williams (Chairman) AL Armstrong DA Arteiro T Bata AR Berman NMN Bhengu L Bick GT Bossr TJ Boswell MC Brönn W Brown PF Burger PG Cleland JG Cloete PPJ Coetser C Cole-Morgan D Corbett D Cunard JN de Villiers GW Driver LJ du Preez RJ Feenstra S Fodor SJ Gardiner D Gewer H Goolam R Gootkin ID Gouws GF Griessel D Hertz J Hollesen VR Hosiosky BB Hotz HC Jacobs TL Janse van Rensburg N Janse van Vuuren G Johannes S July J Kallmeyer SLG Kayana A Kenny BM Kew N Kirby HA Kotze S Krige P le Roux MM Lessing E Levenstein JS Lochner L Louw JS Lubbe BS Mabasa PK Mabaso PM Madala MPC Manaka G Marinus PJG Mason H Masondo C Moraitis KO Motshwane TA Mthiyane J Nickig JJ Niemand GA Nott BPF Olivier WE Oosthuizen M Pansegrouw CP Pauw AV Pillay T Potter BC Price AA Pyzikowski RJ Raath L Rood BR Roothman W Rosenberg NL Scott LK Silberman JA Smit JS Smit CI Stevens PO Steyn J Stockwell JG Theron JJ Truter KJ Trudgeon DN van den Berg HA van Niekerk FJ van Tonder JP van Wyk A Vatalidis RN Wakefield DC Walker D Wegierski M Wiehahn DC Willans E Wood BW Workman-Davies **Consultant** JM Bortz

3.1.3 The executives rejected that advice and awarded a contract to a single supplier without tender process compliance in contravention of the PFMA regulations.

3.1.4 The alleged motive was to save an annual pilferage cost of about R12 million per year.

3.1.5 The monthly cost of the 3 month project was R24 million.

3.1.6 A whistle blower alleges that the CEO personally influenced the decision and the internal legal services were complicit in removing opposing legal obstacles.

3.1.7 An additional alleged irregularity was that SAA charged passengers a fee for the service for a period of 3 months prior to the service being provided.

3.1.8 The alleged cover up internally with senior executive complicity was compounded by the SAA Board that despite request, failed to ensure that the matter be appropriately investigated given the involvement of the CEO (also an ex officio director).

3.2 South African Express ("SAX") Loan

3.2.1 The Minister wrote to the former CEO on the 28th Sept 2012 requesting SAA to consider a moratorium for payment of monies due for a period of 2 months.

3.2.2 The SAX Chairperson Mr Mabizela, also serves on the SAA Board.

3.2.3 On the 10th January 2013 a loan agreement was entered into between SAX and SAA in which payments due to SAA are rescheduled for repayment over 14 months. The amount was capped at R140 million.

3.2.4 The SAA Board was never informed of this loan and did not approve it. Mr Mabizela would have had knowledge of it in terms of both of his directorships of the related companies.

3.2.5 This loan without approval of the Minister of Public Enterprises and the Minister of Finance is in contravention of the PFMA, the Companies Act and also the provisions of the SAA Treasury guarantee.

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3.2.6 On the 7 November 2013 Business Day published a report/article by David Gleason in which an alleged loan by SAA to SAX was referenced.

3.2.7 On the 28 November 2013 the SAA Board resolved that the matter be investigated by Internal Audit.

3.2.8 By the 17th January 2014 the report had not been completed. After that date a report was produced by internal audit which failed to address the legality of the loan and made no adverse finding.

3.2.9 The loan was not authorised nor ratified by the Board which is the accounting authority of SAA. The Company Secretary confirmed that there was no Board Resolution.

3.2.10 Section 66 of the Public PFMA prescribes many prohibitions and limitations pertaining to making loans and guarantees and other financial commitments by a public entity other than in terms of the PFMA. They are not open to discretionary non-observance and are not capable of ratification without certain external approvals including those of the Minister of Public Enterprises, Parliament, the Minister of Finance and the Auditor General.

3.2.11 The CEO has failed to ensure that internal audit adequately investigate the matter, the internal report is little short of a cover up and the Board has avoided address the irregularity.

3.2.12 It is also notable that in May 2013 the SAA Board resolved to write off a debt for similar fuel related debt for SAX dating back to December 2008 and the period from March 2009 to June 2010 amounting to R14,599,883.71 (including VAT).

3.3 Senegal Airlines Letter of intent

3.3.1 The Department of Public Enterprise allegedly initiated contact with a private owner of an equity stake in Senegal airlines.

3.3.2 Following this, the CEO of SAA negotiated with the persons involved and subsequently entered into a Letter of Intent for SAA to acquire an equity stake in Senegal Airlines.

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3.3.3 At no stage was the Board informed of these discussions nor did it approve the Letter of Intent.

3.3.4 The CEO reports to the Board and is not authorised commit to any commercial transaction binding SAA at the behest of the Department (the shareholder).

3.3.5 SAA Airlines are in no financial position to acquire an investment in a foreign airline. Nor is there any commercial rationale for the negotiations.

3.3.6 The Treasury guarantee terms would also prohibit such an investment without Treasury approval. It also amounts to a contravention of the PFMA.

3.4 Misrepresentation of Financial Status of SAA

3.4.1 On Thursday 20 February 2013 the Minister of Public Enterprises tabled the SAA 2012/13 financial report before Parliament and provided a report back to the Select Committee on Labour and Public Enterprises on Wednesday, 19 February 2013.

3.4.2 The operating loss before interest, tax depreciation and amortisation for 2013 showed an improvement to a loss of R425 million(2012 –R703 million).

3.4.3 The CEO stated he was not able to disclose the 2013-14 figures "as the financial year has not ended" but that when it did the figures would be reported to SAA's board before being made available to Parliament. He however stated that the current year improved performance was sustainable implying that performance would at least be no worse.

3.4.4 However well known to the CEO, the Board and the Ministry of Public Enterprises was that the forecast for the 2014 year (ending a month after this presentation) would increase 200% to a loss of in excess of R1 billion.

3.4.5 Therefore SAA and the ministry provided the impression that the financial performance was improving whereas it was materially deteriorating. By declining to give insight into the 2014 year they effectively misled Parliament and the public.

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3.5 Fuel contract renewal

3.5.1 The largest single cost is fuel. The domestic, regional and international fuel contracts were due for renewal at the end of February 2014. These were required to be submitted to the board for approval.

3.5.2 No notices, documents nor discussions, nor approvals were raised at Board level regarding this issue.

3.5.3 On 10 March 2014 round robin resolutions were forwarded to all Board members requesting approval of the renewed contracts. This was after they had expired. The contracts still had to be approved by the Minister and Treasury.

3.5.4 For a period of some weeks SAA did not have a legal supply of fuel.

3.5.5 What is as alarming is that the Executive and the various Board Committees deemed it appropriate to address the approval of a R10 billion contract through a round robin having failed to address the issues earlier prior to the expiry.

3.6 CEO performance

3.6.1 The Board is required annually to review the performance of the CEO. The charter requires this to be conducted by the chairperson on behalf of the Board.

3.6.2 Notwithstanding the deteriorating financial performance and the plethora of allegations of corruption and wrongdoing, the Board has despite requests from within the Board, failed to review the CEO's performance for over 14 months.

3.6.3 On the 28th March 2014 a scheduled performance discussion between the chairperson and the CEO was cancelled. Coincidently and at the same time a Board member challenged whether the chairperson should conduct the review or whether the CEO reports to the chairperson at all.

3.7 Wide Body Fleet Tender

3.7.1 This process is likely the largest capital expenditure program that SAA will consider over the next few years.

3.7.2 Regulation prescribes the requirements of tender bidding.

3.7.3 Recently the RFPs for the wide-body aircraft were withdrawn and it is alleged that a closed bid approach is considered. The potential presents a massive irregularity.

3.8 Long Term Turnaround Strategy (LTTS)

3.8.1 The initial shortfall presented to Treasury and approved by the Board was a deficit of R4.5 billion.

3.8.2 Without further reference to the board this figure has increased to a deficit of in excess of R8.7 billion.

3.8.3 The chairperson of the Audit and Risk committee ("the Committee") of the Board has challenged the process and the approval of this increase.

3.9 Solvency and Risk assessment

3.9.1 As alleged the Board had become dysfunctional for reason that a forensic investigation would identify.

3.9.2 However as part of its allocation of duties the Board transferred to solvency and risk monitoring function to the committee.

3.9.3 This committee failed to identify the December cash funding shortfall potentially bringing the airline to a standstill.

3.9.4 This matter is also raised by the chairperson of the Audit and risk committee.

Role and Functions of the Chairperson and the Board

4 Prior to dealing with the alleged wrongdoings reflected in 3 above, we outline hereunder your role and responsibility as the Chairperson and the relevant roles and functions of the Board.

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5 As a Chairperson you are responsible to a greater extent than any other directors for the performance of the Board as a whole and each of it. You have the primary responsibility of selecting matters and documents to be brought to the Board's attention, for the formulation of policy of the Board and promoting the position of the company. In discharging your responsibility as such, you ought, where necessary to co-operate with the managing director[1]

6 The core functions performed by the Chairperson as stipulated in King Report on Governance for South Africa 2009 ("King III") include:

(i) setting the ethical tone for the Board and the company.

(ii) providing overall leadership to the Board without limiting the principle of collective responsibility for Board decisions, while at the same time being aware of the individual duties of Board members;

(iii) formulating (with the CEO and Company Secretary) the yearly work plan for the Board against agreed objectives, and playing an active part in setting the agenda for Board meetings;

(iv) presiding over Board meetings and ensuring that time in meetings is used productively – Chairperson should encourage collegiality among Board members without inhibiting candid debate and creative tension among Board members;

(v) acting as the link between the Board and management and particularly between the Board and the CEO;

(vi) being collegial with Board members and management while at the same time maintaining an arm's length relationship;

(vii) ensuring that directors play a full and constructive role in the affairs of the company and taking a lead role in the process for removing non-performing or unsuitable directors from the Board;

[1] Awa Ltd v Daniels (1992) 7 ACSR (NSW) 867.

(viii) ensuring that complete, timely, relevant, accurate, honest and accessible information is placed before the Board to enable directors to reach an informed decision;

(ix) monitoring how the Board works together and how individual directors perform and interact at meetings;

(x) ensuring that decision by the Board are executed.

7 Clause 6.1 of the SAA Charter provides as follows:

"6.1 The Chairperson

6..1 The Chairperson is responsible for representing the Board to the Executive Authority and indirectly to the general public for performance.

6.1.1 The Chairperson is responsible for ensuring the integrity and effectiveness of the governance process of the Board.

6.1.3 The Chairperson must ensure that the content and order of the agenda are appropriate and that members of the Board have the relevant papers in good time. The Chairperson must also ensure that Board members are properly briefed on issues arising t Board meetings and that all available information on an issue is before the Board.

6.1.4 The Chairperson is responsible for maintaining regular dialogue with the Chief Executive Officer over all operational matters ad will consult with the remainder of the Board promptly over any matter that gives him or her cause for major concern.

6.1.5 The Chairperson will act as facilitator at meetings of the Board to ensure that no member, whether executive or non-executive, dominates discussion, that appropriate discussion takes place and that relevant opinion among members is forthcoming. The Chairperson will ensure that discussions result in concise outcomes and precise decisions to permit effective implementation.

6.1.6 Between Board meetings the Chairperson maintains an informal link between the Board and the CEO, shall be kept informed by the CEO on all important matters and is available to the CEO to provide counsel and advice where appropriate"

8 The Chairperson should meet with the CEO or the CFO or the company secretary or all three before a Board meeting to discuss important issues and agree on the agenda.

9 The roles and functions of the Board relevant hereto are the following:

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9.1 the Board should collectively provide effective corporate governance that involves monitoring the relationships between the Board and management of the company and between the company and its stakeholders;

9.2 the Board's paramount responsibility is the positive performance of the company in creating value;

9.3 the Board should exercise leadership, enterprise, integrity and judgment in directing the business of the company so that it can survive and thrive;

9.4 the Board has reflective role with collective authority and decision-making as a Board, but directors carry individual responsibility.

10 Each director of a company has a duty to exercise the degree of care, skill and diligence that would be exercised by a reasonable diligent individual who has:

10.1 the general knowledge, skill and expertise that may reasonably be expected of an individual carrying out the same functions carried out by a director in relation to the company;

10.2 the general knowledge, skill and experience of that director; and

10.3 a fiduciary duty to act in good faith and in a manner that the director reasonably believes to be in the best interest of the company.

11 Directors should exercise objective judgement on the affairs of the company independently from management but with sufficient management information to enable a proper and objective assessment to be made. In order to be able to fulfil their legal duties, directors should have unrestricted access to all the companies information, records, documents, property, management and staff subject to a process established by the Board.

12 Failure to perform the duties expected of a director may render a director personally liable.

13 We now proceed to deal with the respective irregularities raised.

13.1 Baggage wrapping contract

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13.1.1 We have noted that this issue was raised by the Chairperson of the Audit Committee and a member of the Board in her letter dated 23 March 2014 to yourself, headed *"Request for Clarification and your Intervention"*. As it appears from the said letter, the Chairperson of the Audit Committee raised this issue as one of the decisions by management resulting in further financial loss to SAA and in this regard, the Chairperson of the Audit Committee ends by stating: *"I would like SAA to give me assurance that SAA policies and processes in relation to the appointment of Bagport were complied with*".

13.1.2 It does not appear that this issue has been tabled for discussion by the Board. You, as the Chairperson, having been notified of this issue must table same for discussion by the Board. Should this have been previously discussed by the Board, kindly urgently forward a copy of the relevant Board minutes to ourselves.

13.1.3 The fact that the transaction was supposed to reduce pilferage which at the time was R18 million a year and the amount spent to reduce such pilferage was approximately R51 million is a risk which needs to be addressed by the Board, which may impact on the liquidity and solvency of SAA. Having said this, it is the duty of the Board to discuss this matter and take a resolution thereon..

13.2 SAX Loan

13.2.1 Once more it appears that the issue relating to this loan has not been discussed at Board level. Now that this has been brought to your attention, it is your duty and responsibility to table same for discussion.

13.2.2 Kindly also urgently provide us with a copy of the loan agreement concluded between SAX and SAA.

13.2.3 The Guarantee Framework Agreement prescribes that the Board, as the Accounting Authority shall obtain the prior written consent of Government before entering into transactions which may (a) materially affect the availability of funding, or (b) result in the default under or acceleration of the Guaranteed Liability (Clause 7.13).

13.2.4 Kindly urgently provide us with a copy of the minutes of the Board meeting of 7 November 2013 and the Internal Audit Report on the investigation that was launched

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in this regard. To the extent that the Board may have discussed the findings of the Internal Audit report, a copy of the minutes where those findings were discussed is urgently requested.

13.3 Senegal Airlines Letter of Intent

13.3.1 The concern raised in relation to this alleged irregularity appears to be the fact that the CEO concluded a Letter of Intent with Singapore Airlines without Board approval.

13.3.2 We have been provided with copies of two submissions from the CEO to the Board on this matter, respectively dated 14 February 2014 and 14 March 2014. The 14 February 2014 submission details the following material facts:

13.3.2.1 that the purposes is to request the Board to note the progress made on developing opportunities for a Wet African Hub in Ghana and Senegal (Paragraph 1);

13.3.2.2 that the Long-Term Turnaround Strategy outlined key interventions to grow the Group's business in Africa, including but not limited to the implementation of the African Hub Strategy and SAA Technical growing line maintenance scale in African states and establishing a Maintenance, Repair and Overhaul (MRO) facility in West Africa (paragraph 3);

13.3.2.3 that management acknowledged the fact that any investment for SAA is highly problematic, in the company's current financial state which will require a compelling Business Plan and a range of approvals including PFMA approval under Section 54 (a-e) by the Shareholder and National Treasury to establish a new business outside the Republic (Paragraph 6);

13.3.2.4 that following a state visit to Senegal in October 2013, the Minister of Public Enterprises hosted a discussion on 11 November 2013 with the Senegalese Minister of Transport and Tourism subsequent to which a delegation led by the CEO and the Deputy Director General (DDG) Transport, with SA Express participation, then visited Senegal from 16-17 November 2013 and engaged with their Minister of Transport and Tourism, resulting in a formal proposal being

received from the Senegal Airline Chairman on 24 November 2013 (Paragraph 12);

13.3.3 that a second delegation, led by the DDG Transport and again with SA Express participation visited Senegal from 7-9 February 2014 where further engagements took place with the Senegalese Minister of Transport and Tourism and a draft Letter of Intent was prepared for review by the legal team of the Department of Public Enterprises (DPE) and the Senegal Airline's legal advisor (Paragraph 14); and

13.3.4 that the approval process sought is for the SAA Board to approve of any eventual equity injection proposal as a Business Plan, prior to a Section 54 application to DPE and National Treasury and further that the Board note the progress made on developing opportunities for a West African Hub in Ghana and Senegal (Paragraphs 23 and 24).

13.4 The submission dated 14 March 2014 records the following pertinent points:

13.4.1 that the purpose is to request the Board to note that the proposal received in November 2013 to form a strategic partnership from Senegal Airlines has been fully evaluated and is unacceptable (Paragraph 1);

13.4.2 that the Minister DPE advised SAA that the President had emphasised the need for South Africa and Senegal to strengthen their strategic relationship and that SOCs should play a "leading role" in support of this objective (paragraph 6);

13.4.3 that at a visit to Dakar, Senegal on 16-18 November 2013 the opportunity for SAA to invest in Senegal Airlines was discussed and it was agreed that the Chairman of Senegal Airlines would send a proposal based on Senegal Airline's interest in SAA investing USD 32 million for 33% of the equity in a reconstituted Senegal Airlines, and the poor financial state of Senegal Airlines was discussed in general terms, without any financial data being provided (Paragraph 8);

13.4.4 that a further SAA /SA Express/DPE delegation visited Dakar on 7-9 February and financial information was not available and an initial draft of a Letter of Intent was developed, to provide a non-binding framework for the joint development of the Senegal Airlines proposal (Paragraph 10);

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13.4.5 that an agreement was reached to send a delegation to Dakar, from 10 March 2014, in one final attempt to exhaust the financial analysis and see if a business case for investment could be established and whilst in Dakar the final execution copy of the Letter of Intent was signed by the SAA CEO and the Senegal Airlines Chairman on 10 March 2014 and distributed to SAA, SA Express and DPE on 11 March 2013 (Paragraph 17); and

13.4.6 that it is requested that the Board note the proposal received in November 2013 to form a strategic partnership from Senegal Airlines has been fully evaluated and is unacceptable.

13.5 Having noted the above, it becomes imperative to determine whether a Board resolution was required prior to the conclusion of the Letter of Intent. We have perused the Letter of Intent signed which contains the following material facts:

13.5.1 that pursuant to the State visit by President Jacob Zuma to Senegal on invitation by President Macky SALL, as well as the visit of Minister Omar GUEYE, to Minister Malusi Gigaba in October 2013, the Parties commenced discussions with regard to the contemplation of future business opportunities both in Senegal and within the broader West African region. Following this visit, the Parties engaged at various levels and hereby wish to record certain matters of which they have reached an agreement (Clause 1.1);

13.5.2 that the Letter of Intent creates a platform for official engagements between the parties (Clause 1.2);

13.5.3 that SAA is desirous of establishing a Hub in the West Africa Region and has identified a joint venture with Senegal Airlines as one of the desired options in pursuing this intent and a joint venture will be established for focus, amongst others, on developing domestic (Senegal), regional (West African) and international routes (Clause 2.1);

13.5.4 that the parties specifically note and agree that the details relating to the final structure of the proposed joint venture will require consideration and approval by their respective Boards of Directors and Government Authorities (Clause 2.4);

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13.5.5 that it is common cause that the nature and scope of work to be undertaken will require that a through (sic) due diligence be undertaken and to enable the commencement of the due diligence exercise, the Parties agree to co-operate with each other and ensure that all required information is provided within 14 (fourteen) business days of requested being made (Clause 3.1);

13.5.6 that the parties agree and confirm that the Letter of Intent accurately records and reflects the current status of their discussions in respect of the proposed joint venture and intention to commence negotiations in preparation of the proposed formal agreement (Clause 5.1); and

13.5.7 that the parties wish to place it on record that the Letter of Intent does not constitute a legal binding document between them, their Boards and government authorities (Clause 5.2).

14 Based on the previous approvals of the Board relating to the issue of exploring the strategic partnership opportunity, and the content of the Letter of Intent, we advise that no irregularity has been committed in this regard and further that it was within the powers of the CEO to conclude the Letter of Intent.

Misrepresentation of financial Status of SAA

15 To enable us to provide you with an advice insofar as this alleged irregularity is concerned, we urgently require a copy of the report referred to.

16 As discussed telephonically with Mr Linnell, it would appear that the remark made by the CEO relating to the financial status of SAA, was not made to Parliament but to a journalist, where the CEO responded to say that the SAA finance forecast looks positive.

17 We under the circumstances also have a concern with this alleged irregularity.

Fuel contract Renewal

18 The major concerns raised herein, being the delay in forwarding he renewal contracts to the Board for approval and only doing same after they had expired, and the round robin resolution

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by the Board addressing a R10 billion contract, are not sufficient grounds warranting an investigation by the respective Ministers under the provision of the PFMA.

19 The issue at hand is not the approval of a new contract but a renewal thereof, which renewal, if any of the Board members had a concern with would have refused to approve. It does not appear that any of the Board members, including the Chairperson had a concern over the renewal.

20 Round robin resolutions are authorised in terms of Article 27.5 of the SAA Articles of Association which provides as follows:

> *"27.5 Subject to the provisions of the Companies Act and these Article, a resolution Signed by all the Directors at the relevant time as contemplated by Article 27.3 Inserted in the minute, shall be as valid and effective as if it had been passed at a meeting of the Board. Any such resolution may consist of several documents and/or counterparts. each of which may be Signed by one or more Directors and shall be deemed to have been passed on the date on which it was Signed by the last Director who Signed it (unless a statement to the contrary is made in that resolution)"*.

Failure to review CEO Performance

21 Clause 16.4 of the Board Charter prescribes that the Chairperson shall appraise the performance of the CEO annually and the results of such appraisal shall be considered by the Board and the Minister to guide them in their evaluation of the performance and remuneration of the CEO.

22 The Board can be referred to this clause and as the Chairperson you can then reschedule the meeting date and perform your duties in accordance with Clause 16.4 of the Board Charter.

Wide Body Fleet Tender

23 This has been presented as a potential "massive irregularity". It would appear that the withdrawal has not been discussed at Board level yet. Under the circumstances, until such time that it is discussed, no further steps can be taken in this regard.

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24 The concerns raised herein are a subject of board discussions that are currently taking place a reflected in the various emails exchanged between Board members. There is therefore no irregularity requiring investigation at this stage pending Board resolution on the matter.

Solvency and Risk assessment

This issue has been placed on the agenda for the special Board meeting that was held on Thursday 03 April 2014. It is a matter that the Board is currently dealing with and therefor the debate should be allowed to proceed and a resolution be taken in that regard.

Recommendation

25 We, in the premise recommend the following:

25.1 that in your capacity as a Chairperson place those issues raised herein that have not been discussed by the Board on the agenda for the next Board meeting to be discussed and for resolutions to be taken insofar as same is concerned.

25.2 to the extent that any of the resolutions taken by the majority of the Board, may, in your view, not be in accordance with the responsibilities and fiduciary duties applicable to the Board members, you should then record your objections thereto and, if necessary seek advice thereon.

Conclusion

26 In our view, and subject to the content of the outstanding documentation requested herein, and further the advice of Adv Cassim SC, the investigation of the alleged irregularities contained herein is premature.

27 We advise that you take the necessary steps to address the issues of concern at Board level.

Yours faithfully

Werksmans Inc
THIS FAX/EMAIL HAS BEEN ELECTRONICALLY TRANSMITTED WITH NO SIGNATURE.

DD34-DCM-1903

SOUTH AFRICAN AIRWAYS

Memorandum

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Private Bag X13
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1627

Tel 27 11 978-2520

Email: nthidbuuka@flysaa.com
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To: The SAA Board of Directors
From: Ms DC Myeni – SAA Board Chairperson
Cc:

Date: 06 May 2014

Subject: **SOUTH AFRICAN AIRWAYS SOC LIMITED CHAIRPERSON SUBMISSIONS TO DIRECTORS OF SAA**

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1 SUMMARY

1.1 Over the past year the Board of SAA has been wracked by internal discord. It is my opinion that this has resulted in valuable Board "time" being taken by peripheral inter-personal/positional matters which have both distracted the Board and

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COMMISSION OF INQUIRY INTO STATE CAPTURE

marginalised opinion and left critical financial oversight, governance and risk matters without proper scrutiny. This has led to a state of dis-functionality.

1.2 It is also my opinion that this discord has resulted in the Executive failing to account fully and transparently to the Board and possibly, to have exploited the discord within the Board;

1.3 We have also seen the structural weakening of the Board oversight role by the formation of, and allocation of certain functions to the PTPC Committee that has contributed to the gap in oversight, particularly with reference to liquidity and funding.

1.4 Over the past 6 month the financial state of the Company has deteriorated to a point that the Board has recently been advised by the Executive on the risks of reckless trading. It is clear that this situation is at least contemplated and has been evident for some months – yet it has not been placed before the Board for substantive discussion before April 2014. It needs to be noted that the Chairperson of the Audit and Risk Committee (ARC) previously in a Committee meeting, in the presence of the external auditors, queried this state and the meeting was assured that this was not a risk. It is now evident that this reassurance was baseless.

1.5 Both the Ministers of Public Enterprises and of Finance have been alerted to this state of affairs.

1.6 In April 2014 the Executive provided the Board with two important documents;

1.6.1 Liquidity risk and Funding Requirement;

1.6.2 Working Capital Project Update;

1.7 It is my opinion that both these documents fail to recognise the extreme and deteriorating financial distress of the Company. This failure is exacerbated by the Board and its designated committees not acting concertedly to acknowledge and address this risk, prior to and following their presentation on the 3rd April 2014.

1.8 The Chairperson of the Audit and Risk Committee as early as November 2013 highlighted concerns about the solvency and liquidity of the Company. These concerns have been addressed to the Board and the relevant Ministers too, yet there has been no purposeful response to the same;

DCM

1.9 This memorandum is not intended to address all the concerns that I have nor their causes. I have reduced these to six matters which I believe demonstrate a failure of governance and risk mitigation. These typify an environment in which the failure to appropriately address material risks to the business manifest.

1.10 It is my proposal that the affairs of the Company be subject to a comprehensive review by an independent body. The mandate must be broad and consider the financial status and performance of the company and oversight provided by the Executive and the Board. This report should be provided to the Board within the shortest practical time. Once deliberated upon, this report should be provided to both the Ministers of Public Enterprises and Finance.

1.11 I would request the Board to consider the memorandum attached. I believe that the Board is able, if it is aligned with common purpose and commitment to the affairs of the Company to address these matters. The time and opportunity to attack or defend has passed. The challenge is clear and the risk is material and imminent.

PART 1 - FINANCIAL STATUS OF SAA

2 The salient background facts herein are:

2.1 During 2012, the Minister, together with the Minister of Finance, approved a government guarantee of R5.006 billion in terms of Section 70(1)(a) of The Public Management Act (PFMA), effective from 1 September 2012 to 30 September 2014. An amount of R1.544 billion of the total guarantee amount of R5.006 billion was allocated for working capital requirements. A 12 month loan for the amount was raised in May 2013 and is maturing in May 2014;

2.2 Following the 2013 Going Concern review, the Minister, together with the Minister of Finance approved the conversion of the Going Concern guarantee previously granted to SAA, to a perpetual guarantee. Government guarantees currently total R7.9 billion. Of this R5.010 billion has been utilized at March 2014;

2.3 In the March 31st 2014 dated submission to the Board entitled "Liquidity Risk and Funding Requirement", the CFO indicated that a further tranche of the guarantee had to be accessed immediately and that the remaining guarantee balance of R2.896 billion would be exceeded by R239 million by the end of the financial year (i.e. total funding shortfall of R3.135 billion);

2.4 In the same March 31st Board submission the CFO stated that reasons for the worse than planned funding position included;

DCM

2.4.1 Lower than budgeted cash generated from operations;

2.4.2 The increase in interest costs due to higher borrowings;

2.4.3 PDP requirements (largely planned) amounting to R737 million;

2.4.4 Deterioration of the Rand/$ exchange rate.

2.5 The first two points are clearly controllable business risks and the third is a budgeted expense. Only the fourth point is outside management control.

2.6 The same report reflects that over the next 18 months the company will only experience a positive cash surplus twice. If one excludes capital payments operational cash surpluses are experienced in only 5 of the forthcoming 18 months;

2.7 The same report concluded that if the company was unable to address the funding shortfall requirements it would expose the company to serious operational and financial risks. In particular SAA would run out of available cash in May 2014 (the current month) and "operations will immediately cease" (my emphasis) as the Company would not be able to pay its operational expenses;

2.8 Without government guarantees SAA is not able to access additional general short-term banking funding to bridge this gap;

2.9 This submission was considered by the Board at its special meeting on the 3rd April 2014 and it was resolved to approach the Minister to access the additional guarantees and to authorise the CFO to raise the required R1.5 billion short term funding;

2.10 On the 15th April 2014 the Chairperson on the instruction of the Board addressed the required communication to the Minister of DPE;

3 The Chairperson of the ARC having been absent from the Board meeting of the 3rd April 2014 noted her concern that if the effect of the Board resolution was to increase the current debt levels (which it was) then there was a serious risk of the Company not being able to service the increased debt levels.

4 Notwithstanding the clear and imminent risks to the Company the response to this impending disaster is limited to the request for further guarantees and debt funding – a solution that is evidently unaffordable;

5 It is clear that the current financial performance of the Company is deteriorating beyond what was planned and that this position is worsening. This situation has been understood

DCM

by the Company since November 2013. (The 28th November 2013 Board Pack per the CFO reported that at October 2013 the Company financial losses for the year to date amounted to circa R1 billion. This, as the CFO stated, was worse than budget and the previous year). It was also mooted that the Company would then reach the (now imminent) funding shortfall.

6 The second document provided to the Board – the "Cost Compression Project" was circulated to the Board on the 18th April 2014. While a deliberate strategy of the Board (cost compression), this report evidences some alarming proposals in respect of which the Board is asked to "note' them as opposed to deliberate on them. They have a major impact on the financials of the company and its balance sheet.

6.1 The objective was to reduce operational expenses materially to reduce the impact on the funding shortfall;

6.2 On the 18th April 2014 the CEO addressed an email to the Board attaching a memorandum and a presentation (prepared by McKinsey) relating to this exercise. This was stated to be for information purposes only and a report would be addressed to the Board at the next formal board meeting. It is understood that a similar communication had previously been provided to the ARC;

6.3 The memorandum referred to the work done by McKinsey Consulting and Regiments Capital;

6.4 The report outlines 20 working capital initiatives with cash release potential of R2.5-4.7bn;

6.5 The Executive would appear to be recommending this approach;

6.6 Some of the initiatives bear scrutiny as they appear to raise cash by selling assets which would either have to be leased back, repurchased or hired (i.e. a postponed future expense). At face-value this might reduce the current cash deficit temporarily but may be at a cost of a weakened balance sheet and/or incremental costs at a future time. The report does not provide a net present value of the costs of these initiatives over time;

6.7 The report does not indicate consequential risks to the business or the effect on the Company's balance sheet.

6.8 It is understood that the proposed fee structure for McKinsey/Regiment might be partly performance based. The final cost is therefore not known;

DCM

6.9 This report was provided earlier to ARC also for noting. I am unaware of any concerns raised by that Committee (at the time of writing) other than by the Chair of that Committee, Ms Yakhe Kwinana;

6.10 This initiative offers both material upside and downside and will have a material impact on the Company. While the Board is informed by the CEO that he will provide more detail at the next formal board meeting (end May), I am most concerned about the process and the level of disclosure and the risks and benefits involved.

6.11 I would therefore like;

6.11.1 To have sight of the original RFP, the selection decision, as well as the written mandate provided to these consultants, including the fees to be earned;

6.11.2 to know whether the Executive has independently (of McKinsey) supported these proposals and whether any of the executives have opposed any part of it and if so who and what aspects have been opposed;

6.11.3 I would like to have a full exposure of the risks associated with this initiative and particular the medium to long-term impact on:

6.11.3.1 the balance sheet;

6.11.3.2 future costs;

6.11.3.3 impact on current funding covenants (certain commercial loans are determined on the balance sheet);

6.11.3.4 the fees to be earned and the proposed measurement criteria;

6.11.3.5 The 3 year net present value cost of the exercise;

6.11.4 I would also like an opinion of the realisation of the "surplus" of the DB fund and whether that might be in conflict with the Pension Funds Second Amendment Act of 2001 (Surplus Act);

6.11.5 I would also like to know what beyond "noting" did the ARC do about this report following its disclosure;

7 I believe the financial predicament facing the company is serious and ought to be the subject of a far more reaching Board discussion than has taken place. I believe the Board is required to address the fundamentals more robustly with the Executive including matters of board governance. Issues to be included are;

DCM

7.1 It is clear that additional debt funding is required (supported by the guarantee) and this will have a further cost impact through the additional interest burden. Depending on future operational performance the company's ability to service additional debt requires to be questioned;

7.2 The current guarantee carries adherence to covenants which if defaulted upon potentially lead to their withdrawal/non-extension. The current financial performance and the increasing debt might trigger such a scenario;

7.3 The questions raised above concerning the McKinsey cost compression strategy.

7.4 The reasons for the Board approved LTTS funding shortfall of R4.5 billion having been altered to R8.7 billion without Board approval;

7.5 The apparent resistance to securing local funding for the A320 procurement and the reasons for the refuting that the Board had required funding to be Rand denominated;

7.6 The possible appointment of a transaction advisor for the fleet replacement and its affordability;

7.7 The utilization of the 2012/13 labour restructuring grant (R653 million) which has allegedly been appropriated to general operating expenditure without approval of the Board or Treasury (it is to be noted that when the Chair of the ARC put this to the CEO she was informed that Board approval had been provided only for her to later discover that this was not correct);

7.8 The wide-body fleet tender. The Board has yet to be provided with a report of the process of this tender. I would specifically like to have sight of the tender process documentation;

7.9 A Board sponsored independent forensic investigation into the discrepancy in the resolution authorising the procurement of 10 new aircraft;

7.10 The practice of the Board to devote valuable time to matters less material to the Company's survival leaving critical matters such as those listed above to alternative approval processes;

7.11 The practice of the Company Secretary deleting audio recorded minutes of meetings;

7.12 The practice of the Company Secretary not consulting myself, the Chairperson with regard to Board meetings and their agenda, in contravention of the Board Charter;

DCM

7.13 The practice of the Board denying access to Directors of Company documents on the pretext of "confidentiality";

PART 2 - SENEGAL AIRLINES

8 The background on the project on the establishment of a West African Hub is known to the Board. Briefly, the salient facts are:

8.1 one of the key interventions outlined in the LTTS as imperative to the growth of SAA's business in Africa was the establishment of a West African Hub;

8.2 on 21 November 2013 the CEO submitted a memorandum to the Board requesting approval for potential locations for the Hub. The recommended locations were Ghana and Senegal;

8.3 in the same memorandum, the CEO indicated at paragraph 11 that "*...we have already engaged (under the Shareholder's guidance) with the Senegalese Government and shortly with the Ghanaian Government to discuss opportunities and identify potential local partner. Importantly, this is being done with the Shareholder to ensure that we fully consider South Africa's national development agenda (such as strong alignment with the activities of other SOCs) in developing hub operations.*";

8.4 at its meeting on 28 November 2013, the Board approved the potential locations for the West African Hub and requested management to develop an implementation plan (see paragraph 8.2 of the minutes of this meeting);

9 Following this, there were various engagements between the Senegalese Government, the DPE, SAA management and SAX management. I record that these engagements were not, at the relevant times, brought to the attention of the Board. The Board was advised of these developments in submissions provided by the CEO in submissions to the Board on the 14 March 2014.

10 I pause here to place on record that the February 2014 submission that was included therewith, despite its date, was only provided to the Board on 14 March 2014 and was not even signed by the CEO. Therefore, any suggestion that the Board was apprised of the CEO's negotiations with Senegal Airlines before March 2014 is a blatant misrepresentation. The 14 February 2014 submission details the following material facts:

10.1 that the purpose is to request the Board to note the progress made on developing opportunities for a West African Hub in Ghana and Senegal (Paragraph 1);

DCM

10.2 that the LTTS outlined key interventions to grow the Group's business in Africa, including but not limited to the implementation of the African Hub Strategy and SAA Technical growing line maintenance scale in African states and establishing a Maintenance, Repair and Overhaul (MRO) facility in West Africa (paragraph 3);

10.3 that management acknowledged the fact that any investment for SAA is highly problematic, in the company's current financial state which will require a compelling Business Plan and a range of approvals including PFMA approval under Section 54 (a-e) by the Shareholder and National Treasury to establish a new business outside the Republic (Paragraph 6);

10.4 that following a state visit to Senegal in October 2013, the Minister of Public Enterprises hosted a discussion on 11 November 2013 with the Senegalese Minister of Transport and Tourism subsequent to which a delegation led by the CEO and the Deputy Director General (DDG) Transport, with SA Express participation, then visited Senegal from 16-17 November 2013 and engaged with their Minister of Transport and Tourism;

10.5 that a proposal for SAA to invest in a reconstituted Senegal Airlines was discussed and a formal proposal was subsequently received from the (Senegal) airline's Chairman on 24 November 2013. The proposal was for SAA to invest USD 32 million for 33% of a reconstituted Senegal Airlines (Paragraph 12 and 14);

10.6 that a second delegation, led by the DDG Transport and again with SA Express participation visited Senegal from 7-9 February 2014 where further engagements took place with the Senegalese Minister of Transport and Tourism and a draft Letter of Intent was prepared for review by the legal team of the Department of Public Enterprises (DPE) and the Senegal Airline's legal advisor (Paragraph 14); and

10.7 that the approval process sought is for the SAA Board to approve of any eventual equity injection proposal as a Business Plan, prior to a Section 54 application to DPE and National Treasury and further that the Board note the progress made on developing opportunities for a West African Hub in Ghana and Senegal (Paragraphs 23 and 24).

11 I would like to emphasise this last point above (3.6) that the purpose of that February submission was to inform the Board of the acquisition discussions and to seek its approval. It is notable that this document was not provided to the Board then but was so in March (without clarification) creating a perception that the document had in fact been shared with the Board previously.

12 The submission dated 14 March 2014 records the following pertinent points: DCM

12.1 that the purpose is to request the Board to note that the proposal received in November 2013 to form a strategic partnership from Senegal Airlines has been fully evaluated and is unacceptable (Paragraph 1);

12.2 that the Minister DPE advised SAA that the President had emphasised the need for South Africa and Senegal to strengthen their strategic relationship and that SOCs should play a "leading role" in support of this objective (paragraph 6);

12.3 that at a visit to Dakar, Senegal on 16-18 November 2013 the opportunity for SAA to invest in Senegal Airlines was discussed and it was agreed that the Chairman of Senegal Airlines would send a proposal based on Senegal Airline's interest in SAA investing USD 32 million for 33% of the equity in a reconstituted Senegal Airlines, and the poor financial state of Senegal Airlines was discussed in general terms, without any financial data being provided (Paragraph 8);

12.4 that a further SAA /SA Express/DPE delegation visited Dakar on 7-9 February and financial information was not available and an initial draft of a Letter of Intent was developed, to provide a non-binding framework for the joint development of the Senegal Airlines proposal (Paragraph 10);

12.5 that an agreement was reached to send a delegation to Dakar, from 10 March 2014, in one final attempt to exhaust the financial analysis and see if a business case for investment could be established and whilst in Dakar the final execution copy of the Letter of Intent was signed by the SAA CEO and the Senegal Airlines Chairman on 10 March 2014 and distributed to SAA, SA Express and DPE on 11 March 2014 (Paragraph 17); and

12.6 that it is requested that the Board note the proposal received in November 2013 to form a strategic partnership from Senegal Airlines has been fully evaluated and is unacceptable.

13 The pertinent clauses of the Letter of Intent referenced above are:

13.1 that pursuant to the State visit by President Jacob Zuma to Senegal on invitation by President Macky SALL, as well as the visit of Minister Omar GUEYE, to Minister Malusi Gigaba in October 2013, the Parties commenced discussions with regard to the contemplation of future business opportunities both in Senegal and within the broader West African region. Following this visit, the Parties engaged at various levels and hereby wish to record certain matters of which they have reached an agreement (Clause 1.1);

DCM

13.2 that the Letter of Intent creates a platform for official engagements between the parties (Clause 1.2);

13.3 that SAA is desirous of establishing a Hub in the West Africa Region and has identified a joint venture with Senegal Airlines as one of the desired options in pursuing this intent and a joint venture will be established for focus, amongst others, on developing domestic (Senegal), regional (West African) and international routes (Clause 2.1);

13.4 that the parties specifically note and agree that the details relating to the final structure of the proposed joint venture will require consideration and approval by their respective Boards of Directors and Government Authorities (Clause 2.4);

13.5 that it is common cause that the nature and scope of work to be undertaken will require that a through (sic) due diligence be undertaken and to enable the commencement of the due diligence exercise, the Parties agree to co-operate with each other and ensure that all required information is provided within 14 (fourteen) business days of requested being made (Clause 3.1);

13.6 that the parties agree and confirm that the Letter of Intent accurately records and reflects the current status of their discussions in respect of the proposed joint venture and intention to commence negotiations in preparation of the proposed formal agreement (Clause 5.1); and

13.6.1 that the parties wish to place it on record that the Letter of Intent does not constitute a legal binding document between them, their Boards and government authorities (Clause 5.2).

14 From a reading of the documentation that has now been provided to the Board in relation to this issue, it appears that the negotiations with the Senegalese government and Senegal Airlines centred around establishing a strategic partnership between the parties which would see SAA acquiring a 33 % equity stake in Senegal Airlines in return for an investment of USD 32 million.

15 What is of great concern to me is that the above does not, at least in my view, conform to the mandate given to the CEO by the Board, which mandate was geared towards establishing a hub in Senegal.

16 Clause 13.1.3 of the Board Charter provides that the approval of the strategy, business plans and annual budgets and of any subsequent material changes in strategic direction or material deviations in business plans shall be reserved for decision by the Board. Clause 6.2.3 of the Board Charter specifically provides that the task of the CEO is to run the business and to implement the policies and strategies adopted by the Board. The

DCM

Board developed the LTTS and the African Growth Strategy. The strategy speaks to the establishment of a hub and the November resolution approved the establishment of that hub in either Senegal or Ghana. The Board never contemplated, nor approved the material deviation from this strategy to the acquisition of an airline.

17 Paragraph 30 of the March 2014 submission further implies that the Board was aware, from November 2013, that SAA, led by the CEO, was exploring a strategic partnership with Senegal Airlines. This is not so. The CEO did not keep the Board apprised of the change in the nature of discussions with the Senegalese. In fact, the first time that the Board became aware of the nature of the discussions was upon receipt of the submissions to the Board on 14 March 2014.

18 What also concerns me is that notwithstanding the February document which stated that Senegal Airlines was in serious financial and operational difficulties, and given our own financial and operational difficulties, the Executive continued for a further month to pursue the notion of an acquisition.

19 Furthermore, the CEO pursued this unapproved strategy for a period of 5 months. The Board has no knowledge of whether, during that period, any significant progress has been made with regards to the implementation of the actual Board approved strategy.

20 In light of the above, the CEO is requested to provide the Board with a submission on the following:

20.1 whether any fruitless and wasteful expenditure has resulted from the negotiations with Senegal Airlines;

20.2 the authority relied upon in departing from the strategy approved by the Board and pursuing the acquisition of a stake in an airline;

20.3 what progress, if any, has been made in developing an implementation plan for the establishment of a West African Hub as directed by the Board in its meeting on 28 November 2013. If such a plan has been developed, the CEO is requested to provide same to the Board for discussion and approval; and

20.4 an explanation as to why the Board was not kept apprised of the engagements with the Senegalese until 14 March 2014.

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PART 3 - SOUTH AFRICAN EXPRESS ("SAX") LOAN

21 The salient background facts herein are:

21.1 the Minister DPE wrote to the former CEO of SAA on 28 Sept 2012 requesting SAA to consider a moratorium for payment of monies due by SAX to SAA for a period of 2 months;

21.2 on 10 January 2013 SAX and SAA concluded a Memorandum of Agreement in terms of which SAX deferred payments due to SAA for repayment in equal instalments over a period of 14 months commencing in January 2013 and concluded in February 2014. The deferred payments were in respect of the following services:

21.2.1 Two (2) months (September 2012 and October 2012) worth of fuel payments; and

21.2.2 Two (2) months (September 2012 and October 2012) worth for sundry services, including, but not limited to, passenger and ground handling, Information Technology and network charges;

21.3 The deferred amount was capped at R140 million;

21.4 in May 2013 the SAA Board resolved to write off debts of SAX dating back to December 2008 and the period from March 2009 to June 2010 amounting to R14,599,883.71 (including VAT).

21.5 on the 7 November 2013 Business Day published a report/article by David Gleason in which an alleged loan by SAA to SAX was referenced;

21.6 on the 28 November 2013 the SAA Board resolved that the matter be investigated by Internal Audit. In particular, it was envisaged that internal audit would also investigate the lawfulness of the extension;

21.7 By 17 January 2014 the report had not been completed. After that date a report was produced by internal audit which specifically stated that reference to its legality was not within its mandate.

22 Section 66 of the PFMA contains prohibitions and limitations on making loans, issuing guarantees and securities and otherwise binding the company to future financial commitments without adherence to the prescripts of the PFMA. In this regard, section 66 (3)(a) provides that a Schedule 2 public entity may only borrow money, or issue a guarantee, indemnity or security, or enter into any other transaction that binds or may bind that public entity to any future financial commitment through its Accounting

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Authority. Both SAA and SAX are public entities, listed in Schedule 2 of the PFMA and bound by the provisions of the PFMA.

23 SAA's Accounting Authority is the Board. It therefore stands to reason that any decision to provide a loan to SAX, through a deferred instalment payment arrangement should have been approved by the Board in accordance with the PFMA.

24 In spite of the above however, management took the decision to enter into the January 2013 agreement with SAX without seeking or obtaining Board approval. This amounts to a serious contravention of the PFMA. Section 68 of the PFMA provides further that where a lending transaction is concluded without adherence to the prescripts of section 66, such transaction is not binding on the company.

25 The Guarantee Framework Agreement concluded with National Treasury prescribes that the Board, as the Accounting Authority shall obtain the prior written consent of Government before entering into transactions which may (a) materially affect the availability of funding, or (b) result in the default under or acceleration of the Guaranteed Liability (Clause 7.13). Unless written consent can be produced, the decision to defer payment over a period of 14 months is in direct contravention of clause 7.13.

26 Although an internal audit report was compiled, the report specifically excluded any properly motivated and/or supported view on the legality of the process followed in concluding the agreement. No evidence of obtaining a legal opinion either from the Company's internal legal department, or its external lawyers prior to concluding the agreement has been provided to the Board.

27 It is also very alarming that the decision to conclude the agreement was made at a time when SAA's own financial situation was precarious to say the least. The Board is tasked with ensuring the financial stability of the Company. However, it cannot fulfil this function when management continues to take decisions and follow courses of action without the requisite Board involvement and approval.

28 I also record that despite my various requests that this matter be properly debated by the Board, certain elements within the Board have resisted this request. Furthermore, the Board took an unfortunate decision to instruct Internal audit to conduct the investigation into this matter, despite strong motivation for referral of the matter to an external and better resourced (in times of capacity and time) service provider. The result of that decision was the receipt of a wholly inadequate report and in particular specifically excluded reference to its legality. I therefore now insist that due to the severity of this issue, it must be placed on the agenda and properly considered. To assist the Board in its

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deliberations, management is requested to furnish the Board with a report on the transaction with particular focus on:

28.1 whether any opinion was sought with regards to the legality of the process followed and the deferred payment arrangement entered into with SAX, particularly in light of the PFMA and its regulations. If such opinion was sought and obtained, management is requested to provide same;

28.2 the impact of the deferred payment arrangement on the Company's liquidity and solvency position;

28.3 the detailed rationale for failing to seek Board approval prior to the conclusion of the agreement;

28.4 the detailed rationale for failing to seek approval from Government in accordance with the Guarantee Framework Agreement. If such approval was sought and obtained, same must be provided to the Board; and

28.5 the brief and/or instructions provided to internal audit in respect of the investigation.

29 I further request the Board to consider obtaining an external legal investigation and opinion on the legality of the transaction.

PART 4 - BAGGAGE WRAPPING CONTRACT

30 On or about 6 February 2014 SAA received a media query from City Press relating to the award of a contract to Bagport to provide mandatory baggage wrapping for all SAA passengers leaving OR Tambo for a consideration included in the passenger airfare.

31 In the query, City Press asked the following questions:

31.1 Did SAA start charging the fee for baggage wrapping in November 2013 before the service was even installed towards the end of January? If so, what was the justification;

31.2 What is SAA currently charging passengers flying out of ORT to wrap their bags? The fee is understood to be R50 of which Bagport gets R30;

31.3 The Business Case document of 6 December 2013 however advises spreading the charge to all domestic route and making it R30 in each direction. Are fliers out of Cape Town being charged this fee? If so, are they receiving the wrapping service;

DCM

31.4 An email from Mr Keith Green dated 3 January 2014 and tabled before the BAC however advises that the charge since November is R60 for domestic and R100 for international flights out of ORT. Which is the actual fee;

31.5 Are passengers being given the option to opt out – and are they being notified of the new charge;

31.6 Is this revenue being split between SAA and Bagport on a 40%/60% basis, as outlined in a Business Case dated 6 December 2013;

31.7 How much revenue has been collected from these fees since inception;

31.8 Did SAA award this trial contract despite an internal legal opinion supporting the BAC's decision last month to retract approval;

31.9 After receiving the negative legal opinion, did SAA appoint outside senior counsel to review it? If so, is this usual practice;

31.10 Why was there an apparent rush to award this contract when its legality was not certain and internal legal opinion recommended waiting for certainty from ACSA regarding the scope of the Ground Baggage Handling licenses;

31.11 Is SAA aware of threatened legal action by both ACSA and BidAir Services to challenge the contract;

31.12 Did SAA award the contract without a tender process, or without approaching any other service providers for comparative quotes? If so, why? The BAC questioned, in an email from 13 January 2014, the price being paid for the service as being too high;

31.13 In the Business Case document the cost estimate is based on an estimated 289 615 bags per month. A R30 for Bagport this amounts to R26million. In the Business Case of 6 December the total revenue (including SAA's 40%) comes to R27 million while estimates differ so sharply? How many passenger are actually subject to the charge.

32 A further allegation has been made to the effect that although the purpose of the transaction was to reduce baggage pilferage which at the time was R18 million a year, the amount actually spent on the contract was approximately R51 million over a three month period.

DCM

33 Following this, the Board did not, despite the severity of the allegations, receive a briefing from management regarding the process following in awarding the baggage wrapping contract.

34 In light of SAA's current dire financial situation, and our obligations in terms of the PFMA and its Regulations, our Supply Chain Management Policy and our Charter, one must appreciate that the above allegations are very serious and deserve proper consideration by the Board.

35 The above raises a number of governance and solvency and liquidity challenges for SAA. On 5 April 204 I addressed an email to the CEO in which I reiterated my request for a report on this matter. In particular, I sought clarity on, *inter alia*, the following issues:

35.1 the supply chain processes followed before selecting a service provider;

35.2 the actual cost to SAA for the provision of the service;

35.3 which internal department was at the forefront of this project as well as the rationale for the project;

35.4 the process followed in determining the cost to passengers for the service;

35.5 the rationale for charging passengers for the service, before the service was offered to passengers;

35.6 as this was punted as a cost saving initiative, how were costs saved and how did the project reduce pilferage costs for SAA;

35.7 was a legal opinion obtained relating the project and the award of the contract;

35.8 is SAA exposed to legal liability as a result of having charged passengers for the service prior to the provision of the service;

35.9 in print media the CEO was quoted as saying that transformation played a role in the award of the contract to Bagport – what are the transformation credentials of Bagport; and

35.10 the consultative process followed in respect of ACSA in relation to this project.

36 Notwithstanding that on 6 April 2014 the CEO advised me that a report on the Baggage Wrapping project would be included in the Board packs for our meeting in May, I would also like to know why these answers have required such a period to provide (the initial press request being February). Such submission must include answers and/or clarity on

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the issues outlined above. In particular, the Board must be assured that the supply chain processes followed did not fall short of the standards required in the PFMA and its Regulations, as well as the Treasury Regulations.

PART 5 - TENDER FOR JET FUEL

37 As at 28 February 2014, the Jet fuel contracts had not been renewed, nor had they been extended. The contracts therefore lapsed. To date, the contracts have not, to my knowledge, been renewed and/or extended. Fuel accounts for about R10 billion per annum and is possibly the most critical supply-side risk.

38 On 10 March 2014 the office of the Company Secretary circulated round robin submissions titled "Final Supplier Selection Recommendation for: the Supply and Delivery of Jet A1 Fuel to South African Airways and its Affiliates (SAX) Domestic Locations" and a similar one in respect of "Regional and International Locations" for the consideration of the Board.

39 The material aspects of the "Domestic Locations" round robin submission were that:

39.1 the purpose of the submission was to seek the SAA Board approval to the extension of current Domestic Jet Fuel contracts for a period of one year, i.e. from 1 March 2014, to 31 March 2015 at an estimated cost of R6 billion (being 59% of total fuel Opex of R10 billion)

39.2 the extension was to ensure uninterrupted continuity of SAA's operations, and is in view of the PTPC decision not to award as recommended by the Jet Fuel CFST but to extend the existing Domestic Jet Fuel contracts to enable achievement of transformation imperatives of the Domestic Jet Fuel Sector by unlocking areas in which broad based participation in the Jet Fuel Supply chain can be founded, mandated by the SAA Board (paragraph 1 and 2.10);

39.3 on 15 September 2013 SAA released a Request for Bid: GMSM067/13, whereby under the umbrella of the aforementioned Tender the Jet Fuel CFST introduced all invited Bidders to a two stage tender process;

39.4 The Jet Fuel suppliers are reluctant to quote 5 – 6 months in advance, prior to contract expiry date/s (volatility of Jet Fuel markets). This affects the Jet Fuel CFST planning of each Annual Jet Fuel Tender Process, which is generally released to the Jet Fuel market on 2 – 3 Months before the current Jet Fuel contract's expiry. This puts the Jet Fuel CFST under tremendous pressure to negotiate and secure best offers for SAA's locations and obtain the necessary approvals in time for implementation of new contracts (paragraph 2.7);

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39.5 on 29 November 2013 the BAC supported the Jet Fuel CFST recommendation as well as the issuing of the aforementioned letters of engagement (paragraph 2.8);

39.6 on 27 February 2014 the Jet Fuel CFST obtained a PTPC resolution not to support the Jet Fuel CFST recommendation but to extend existing Domestic Fuel contracts for 12 months, i.e. from 1 March 2014 until 28 February 2014 (*sic*), based on the rates offered during the 2013 Jet Fuel Tender Negotiation Process (matter acknowledged by the PTPC) (paragraph 2.9);

39.7 the Board is requested to note that the extension of SAA's current Domestic Jet Fuel Contracts is based on the Terms and Conditions agreed on by SAA and Oil Majors during the Final Round of Negotiations of the 2013 Jet Fuel Tender Process; taking into consideration the ever changing Jet Fuel Markets dynamics (domestically as well as globally) (paragraph 15)

40 The material aspects of the "Regional and International Locations" round robin submission were that:

40.1 The purpose of the submission was to obtain Board approval for;

40.1.1 The emergency extension of the existing Jet A 1 Fuel suppliers contracts for 1 month from 1st March 2014 to 31st March 2014;

The request to "approve" the one month extension of the current Regional and International contracts (which took place from the 1 March 2014 to expire 31 March 2014) was to enable uninterrupted continuity of operations while creating much needed time frame to mobilize essential suppliers logistics. The implication was that this had already been extended and therefore in effect the request was to ratify that unauthorised extension;

40.1.2 The approval to award contracts to Jet A 1 Fuel suppliers listed for the supply and delivery of Jet A1 Fuel to all SM and its affiliate (SA Express) Regional and International locations, for a period of one year, i.e. from 1 April 2014 until 31 March 2015, with the exception of Swissport (an into plane service provider) to whom a two year contract was recommended, i.e. from 1 March 2014 until 28 February 2016;

40.2 The PTPC support of the above recommendation was obtained on the 27 February 2014;

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40.3 On 15 September 2013 a Request for Bid (GSM067/13) invited Bidders to a two stage Tender Process;

40.4 On the 29 November 2013 the BAC supported the Jet Fuel CFST recommendation as well as the issuing of the Letters of Engagement. However this was never supported by the PTPC which only deliberated on the proposal 21 February 2014;

40.5 On the 27 February 2014 the Jet Fuel CFST obtained a PTPC resolution which expressed the support of award of new contracts for the Jet Fuel supply and delivery to SAA's Regional and International locations (i.e. for 12 months from the 1 April 2014 until 30 March 2014) to the recommended Bidders;

41 On 12 March 2014 I addressed an email to the CEO in which I raised various concerns regarding the Jet Fuel contracts. In summary, these concerns were:

41.1 that the PTPC only considered the supply agreements a few days prior to the expiry of the contracts ;

41.2 that the submission to the Board regarding the approval of the extension of the contracts was presented to the Board via a round robin, whereas the Board had met on 20 February 2014. The Jet Fuel contracts constitute the largest SAA tender and contributor to SAA's losses, and yet the Board was not sensitized to the fact that the contracts had not been renewed and/or extended prior to the expiration thereof;

41.3 whether as a result of the fact that the contracts had been allowed to lapse, SAA is in breach of the PFMA in that it is receiving fuel services without a valid and approved contract from 1 March 2014;

41.4 that despite guidance from the Minister at the SAA AGM on 29 January 2014 to the effect that SAA must find means to reduce fuel costs or explore ways and means to find solutions, nothing appears to have been done in that regard; and

41.5 that tenders should be advertised as opposed to extending pre-existing contracts because extension does not generally result in the lowest possible price.

42 To date no satisfactory answers have been provided to the above concerns.

43 As a result of the concerns outlined above, I did not sign the round robin resolution. Therefore, to the best of my knowledge, SAA is currently operating without valid and binding Jet Fuel contracts. This presents a number of governance challenges.

44 In the first instance, we must remember that, as the Accounting Authority of SAA, the PFMA enjoins the Board to act with fidelity, honesty, integrity and in the best interests of

DCM

SAA in managing its financial affairs. As alluded to above, Jet Fuel constitutes one of the biggest contributors to SAA's losses. It therefore stands to reason that the Jet Fuel contracts must be given priority in the Board's deliberations.

45 Furthermore, according the round robin submission, the contract extension will cost SAA approximately R10 billion. Part of the responsibility of the Board in this regard would then be to consider whether there are other, more cost effective, means to source Jet Fuel. This cannot, with respect, be done via a round robin resolution, particularly in the circumstances described above.

46 The Board met on 10 March 2014. At this meeting, the issue of the contracts was not raised or discussed, despite the urgency thereof. The Board met again on 3 April 2014. This meeting (as I raised in my letter dated 3 April 2014) would have been an opportune time for the Board to deliberate on the way forward regarding the contracts, especially in light of the fact that the contracts have not yet been extended/renewed.

47 I therefore submit that the Board ought to deliberate on this issue at its next soonest meeting. In particular, management must advise the Board:

47.1 whether the Jet Fuel contracts have been extended despite the fact that the Board has not deliberated on such extension. In other words, whether the round robin resolution sought approval of the contracts, or in fact sought ratification of the extension of the contracts;

47.2 the reasons for the delay in seeking approval from the Board;

47.3 if the contracts have not been extended, what arrangements are in place regarding the provision or sourcing of Jet Fuel and whether such arrangements comply with the prescripts of the PFMA, the Treasury Regulations and other applicable legislation;

47.4 if the contracts have been extended, what process was followed in such extension and did the process comply with the PFMA, the Treasury Regulations and SAA SCM Policies;

48 It should also be noted that at its meeting on the 25th August 2013 the Board noted that it would be helpful for SAA to understand what the Strategic Fuel Fund ("SFF") could offer SAA. In response to this, the CEO indicated that SAA was engaged in discussions with SFF and that SFF and SAA were about to conclude a Memorandum of Understanding. I am not aware of progress in this regard.

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PART 6 - DHL "ANTI-COMPETITIVE PRACTICE" SETTLEMENT

49 On the 14th March 2014, the assistant to the Company Secretary circulated a round robin resolution together with supporting documentation entitled "SAA Board of Directors' written resolution no 2014/b05: Request to approve settlement in the DPWN Holdings (USA) Inc ["DHL"] v South African Airways ["SAA"] matter".

50 The recommendation of the SAA attorneys was "to authorise a settlement amount of up to $1.75 million (US$), and an opening counter-offer of $I.1 million. While DHL will want to negotiate from the opening figure, we think the parties will eventually settle for an amount at or less than $1.75 million. Based on the data available to us a settlement of $1.5 million is less than 2% of the worldwide spend over the settlement period, and $1. 75 million is just over 2. 3%.

51 The matter as the submission indicated was considered and approved by the Audit and Risk Committee (ARC) at its meeting held on 12 March 2014.

52 The background stated;

52.1 In July 2011, SAA concluded a settlement agreement, with the Plaintiffs class, in the matter of Air Cargo Antitrust Shipping Services. The facts, on which that settlement agreement was concluded, are identical to the facts in this matter. It is common cause that the current Plaintiff, DHL, opted out of those settlement negotiations, with the view to instituting separate legal proceedings, which they now seek to institute;

52.2 In the Air Cargo Antitrust Shipping Services litigation the Plaintiffs class alleged that during the period 1 January 2000 to 11 September 2006, the Defendants [including SAA] participated in an unlawful cartel or conspiracy to raise, fix or maintain prices of airfreight shipping services for shipments to, from and within United States. This, they [the Plaintiffs class] contend, was done in contravention of the Sherman Act;

52.3 The Defendants in the Air Cargo Antitrust Shipping Services litigation [including SM) opted, without admission of liability, to settle the claims instituted against them, in order to avoid incurring huge costs in defending the claims. Other Defendants in the Air Cargo Antitrust Shipping Services include Deutsche Lufthansa AG, Lufthansa Cargo AG, and Swiss International Airlines. In the 2011 Settlement Agreement it is evident that the Settling Defendant, SM, paid a settlement amount of USD 3,29million. We are further advised that DHL, in relation to these new proceedings, has:

DCM

52.3.1 reached settlement agreements with 11 other carriers; and

52.3.2 filed suit against United, and is vigorously prosecuting that suit in the ED-NY federal court.

52.4 DHL has now served a draft complaint (draft summons) on Baker Botts LLP, attorneys that represented SM in the Air Cargo Antitrust Shipping Services settlement negotiations. A number of other developments have ensued since the service of the said draft complaint. Some of these are set out hereunder:

52.4.1 DHL has confirmed that should settlement negotiations fail, they will institute formal legal proceedings against SM;

52.4.2 We have obtained legal advice from Baker Botts LLP to the effect that it is advisable for us to try and settle this matter rather than litigate. A copy of the memorandum of advice is attached hereto;

52.4.3 On our [SM Legal) instructions and behest, Baker Botts LLP had signed a tolling agreement with DHL, in terms of which DHL afforded SM some time to consider the matter fully. We have, again, instructed Baker Botts LLP to negotiate with DHL to hold the service of the summons in abeyance pending the Board's consideration of this settlement proposal;

52.4.4 DHL has already instituted proceedings against some of the Defendants [settling defendants in the Air Cargo Antitrust Shipping Services matter) who did not enter into any settlement negotiations with DHL.

53 Given the serious implications of SAA being sued under the Sherman Act and the value of the settlement being R50 million this matter ought to reasonably have been brought to the Board's attention prior to a belated round robin (which process offers a rubber stamp).

54 This matter was not brought to the Board's attention at the preceding Board meeting on the 20th February 2014 and there is no supporting reason why this was not brought to the Boards' attention.

55 When confronted with this lapse, the Head of Legal advised that the matter had in fact been included in the February 7th 2014 Board pack. Whereupon the Chair of the ARC referencing the same Board Pack, the Head of Legal admitted that her statement had been untruthful and misleading and apologised.

DCM

56 The CEO was requested by the Chairperson of ARC to advise her of what disciplinary action would be taken against the Head of Legal. There has been no response from the CEO.

57 I believe the wilful misleading of the Board by a senior executive constitutes serious misconduct. The fact that the CEO has effectively condoned the act does to my mind exacerbate the wrongdoing and further erodes the trust between the Board and the Executive.

58 I request that the Board deal with this matter formally.

Ms DC Myeni
Board Chairperson
06/05/2014

COMMISSION OF INQUIRY INTO STATE CAPTURE

Subject: FW: Payment for Ms Myeni, re Work for SAA
Date: Tuesday, 08 December 2015 at 20:14:16 South Africa Standard Time
From: Yakhe Kwinana
To: Musa Zwane, Ruth Kibuuka
Attachments: CMS_SOUT0004C6C4.pdf

Dear A:CEO

This invoice was paid in full by the Chairperson and she needs to be re-imbursed the full amount of R269, 416-20 for work performed on review of the Board Memorandum of Incorporation, the Board Charter in respect of unscheduled Board meetings and advice on Governance issues.

Please pay as this is long overdue.

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 M [mailto:dudumyeni@telkomsa.net]
Sent: 25 November 2015 11:21 PM
To: 'Nick Linnell' <nickl@theprojectoffice.com>
Cc: Yakhe Kwinana <yakhe@kwinana.co.za>
Subject: Payment for Ms Myeni, re Work for SAA

Dear Nick

Please help me with my claim, we can send it to Yakhe so she can make an endorsement for payment.

Regards

Application for reimbursement of legal expenses incurred in furtherance of Directors duties

1. Background

The Companies Act provides that a Director is entitled to seek external professional advice in support of fulfilling his/her duties.

Where circumstances are such that internal advice is inappropriate the director is entitled to seek the professional advice at the cost of the company.

2. Advice on Board of directors behaviour and performance

During 2014, the SAA Board was wracked with internal conflict in which elements of the board were aligned with elements of the executive. This led to a period where the board was dysfunctional and an impasse had been created.

The Chairperson, Ms Myeni, considered that members of the board were obstructing the investigation of allegations of wrongdoing and in particular against the then SAA CEO, Mr Kalawe.

Notwithstanding numerous attempts to seek the Board's intervention, the Minister intervention and the auditor General and public Protector's intervention, the chairperson considered it her obligation to seek external legal advice as to her duties in the face of numerous allegations that required deliberation and action by the board.

The Chairperson then approached Werksmans attorneys.

As a result Werksmans considered the information provided by the Chairperson and compiled an memorandum which in a legal and structured manner documented the allegations and made recommendations regarding the resolution of these.

The memorandum was submitted to the board and the Minister.

3. Consequence of the advice provided

As a result of this intervention, the minister met with members of the board and the executive. Subsequent to that, the Minister acting in terms of the Companies Act removed six members of from the board. The board then further considered the memorandum provided by Werksmans and resolved that an independent forensic enquiry conducted by ENS Forensics be conducted into allegations against the CEO.

As a result of that investigation, the board resolved to institute disciplinary hearing against the CE on grounds of serious misconduct. This culminated in Mr Kalawe resigning.

4. Justification

In terms of S76 of the Companies Act, a director is required to exercise independent discretion and act in good faith, in the best interests of the Company and in doing so is entitled to rely on legal counsel and other professional persons for advice.

In this instance the chairperson sought the advice of Werksmans attorneys in respect of the performance of the board and her bona fide belief that the board was not adhering to the normal prescripts of good governance.

Subsequent action by the then Minister to remove members of the Board , corroborated the judgement of the Chairperson seeking external legal opinion.

Having acting in her capacity as a director and incurred costs that were for the benefit of the company, the chairperson is lawfully entitled to recover the same from the Company.

The expenditure was in the best interests of the company. The costs are reasonable in the circumstances.

5. Request

The chairperson of the audit and risk board committee is requested to consider the application for reimbursement of legal expenses incurred by the Chairperson and if considered appropriate to then submit to the board for final consideration. It is also suggested that the Minister be informed of the reimbursement in the event that it is approved.

DC Myeni

Chairperson

…/attached invoices and statement of Werksmans attorneys

WERKSMANS
ATTORNEYS

TAX INVOICE

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Reg. No. 1990/007215/21
VAT No. 4520107568

YOUR REFERENCE:
OUR REFERENCE: **CORLETT M. MANAKA**
YOUR VAT NO: **4260170990**
MATTER NAME: **CHAIRPERSON SAA BOARD**

DATE: **25 MAY 2014**
MATTER: **SOUT0004.26**
INVOICE: **473471**

PLEASE BE ADVISED, WERKSMANS ATTORNEYS HAS NOT CHANGED BANKING DETAILS

Code	Item	Amt Ex VAT (ZAR)	VAT %	VAT (ZAR)	Total (ZAR)
FEES	TO OUR FEE AS PER ATTACHED MEMORANDUM	216,330.00	14	30,286.20	246,616.20
ADV	ADV N A CASSIM; INVOICE#: 5471; DATE: 29/04/2014	20,000.00	14	2,800.00	22,800.00
	INVOICE TOTAL (ZAR)	236,330.00		33,086.20	269,416.20

Remittance Advice - This invoice is payable on presentation

Payment of this account may be made by post at your own risk to the above correspondence address or by direct deposit into our bank account at:
Standard Bank, Sandton, South Africa
Branch Code 01-92-05, Swift Code SBZAZAJJ
Account 022 687 955 Reference **SOUT0004.26**

Invoice No	Matter
473471	SOUT0004.26
Invoice Amount	**Amount Paid**
R269,416.20	

COMMISSION OF INQUIRY INTO STATE CAPTURE

Subject: RE: Chairpersons expenses
Date: Thursday, 10 December 2015 at 10:24:22 South Africa Standard Time
From: Phumeza Nhantsi
To: Yakhe Kwinana2, Musa Zwane, Ruth Kibuuka
Attachments: image001.jpg

Good day Shlalo

Noted we will act on it

Regards

From: Yakhe Kwinana2
Sent: 09 December 2015 07:48 PM
To: Phumeza Nhantsi; Musa Zwane; Ruth Kibuuka
Subject: Fwd: Chairpersons expenses

Sent from my Samsung device

-------- Original message --------
From: Nick Linnell <nickl@theprojectoffice.com>
Date: 2015/12/09 16:18 (GMT+02:00)
To: Yakhe Kwinana <yakhe@kwinana.co.za>
Subject: Chairpersons expenses

Dear Yakhe
The Chair asked me to forward to you for your consideration, her claim for a refund of costs incurred in support of her duties as a director.
Kind regards
Nick

Nick Linnell
The PROJECT Office
Business Improvement Delivery
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 | Plattekloof 3 | 7500
Directors: N H Linnell| M Green
Postal Add PO Box 15813 | Panorama | 7506

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Subject: RE: Chairpersons expenses
Date: Monday, 25 January 2016 at 13:50:07 South Africa Standard Time
From: Ruth Kibuuka
To: Phumeza Nhantsi, Sivuyile Maso
Attachments: image004.jpg, image005.jpg, image006.jpg, image007.jpg, image008.jpg

Hi Phumeza,

Currently there is no Board resolution approving these costs, however as indicated in the write up, we will request the ARC Chair to ask the Board to consider.

Sivu, please liaise with Ms Kwinana and assist by drawing up the resolution that she will present to the Board.

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: Phumeza Nhantsi
Sent: 25 January 2016 09:52 AM
To: Ruth Kibuuka; Sivuyile Maso
Subject: FW: Chairpersons expenses

Good day team,

Attached is the write up relating to costs that were paid by the Chairman of the Board on behalf of SAA. I have done the verifying and the audit on the payment and I am happy that the payment be re-imbursed to the Chairman. Could you please prepare a resolution and we might need a round robin on this as it is stipulated in the write up. It is stipulated in the write up that the Chaiperson of the Audit Comm will sumbit to the board for approval. And based on the information that I received this was approved by the board but now I just need the resolution that states that

Regards

Phumeza Nhantsi | Interim Chief Financial Officer | Finance

Phone: +2711-978-1736 | E-Mail: PhumezaNhantsi@flysaa.com
6th Floor, Airways Park, OR Tambo International Airport- Johannesburg- South Africa

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From: Yakhe Kwinana2
Sent: 09 December 2015 07:48 PM
To: Phumeza Nhantsi; Musa Zwane; Ruth Kibuuka
Subject: Fwd: Chairpersons expenses

Sent from my Samsung device

-------- Original message --------
From: Nick Linnell <nickl@theprojectoffice.com>
Date: 2015/12/09 16:18 (GMT+02:00)
To: Yakhe Kwinana <yakhe@kwinana.co.za>
Subject: Chairpersons expenses

Dear Yakhe
The Chair asked me to forward to you for your consideration, her claim for a refund of costs incurred in support of her duties as a director.
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 | Plattekloof 3 | 7500
Directors: N H Linnell| M Green
Postal Add PO Box 15813 | Panorama | 7506

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