

SWORN STATEMENT

Sarah-Jane Trent, ID No. [REDACTED] 083 with Tel No. 08 [REDACTED] states under oath as follows:

1

I am an adult female Executive Director of 'Forensics for Justice' a not for profit company, which aims to expose state sponsored crime and operates from No. [REDACTED] Johannesburg. The purpose of this statement is to open a docket against the following persons:

1. Ms Duduzile Myeni 'Myeni'
2. Ms Lynette Brown 'Brown'
3. Mr Jacob Zuma 'Zuma'
4. Mr Nicholas Linnell (Id No. [REDACTED]) 'Linnell'
5. Mr Tony Gupta 'Gupta'
6. Mr Salim Essa 'Essa'
7. Mr Ben Ngubane 'Ngubane'
8. Mr Thalente Myeni 'Thalente'

Collectively 'the Suspects'

For the offences of: **Corruption, Fraud and Racketeering**, as more particularly set out below.

BACKGROUND

2

Myeni was the founder and chairman of the Jacob Zuma Foundation. She was also the erstwhile chairman of South African Airways 'SAA' and was also the erstwhile chairman at Mhlathuze Water Board 'MWB'.

3

Brown was at all material times the Minister of Public Enterprises, and as such the 'shareholder' representative of both SAA and Eskom, until SAA was moved to the Ministry of Finance.

4

Zuma is the current State President of the Republic of South Africa. He is also the father of Thalente Myeni and Duduzane Zuma.

5

Linnell claims to be a lawyer, yet there is no showing of him on South African law society registers. In 2011, he was unlawfully hired by Myeni to 'fix' publicity issues following her gross misconduct at MWB. He was later (in 2014 and 2015) unlawfully hired by Myeni, to 'fix' and cover up her criminal conduct at SAA. As will be seen, he was also unlawfully hired by Eskom to assist in unlawfully getting rid of certain executives, thereby participating in the corrupt capture of Eskom by certain members of the Gupta family and their businesses, which included one of the sons of Zuma, namely Duduzane, who was at all material times in business with the notorious Gupta family. Linnell also participated in 1978 to 1980 in the illegal regime of Ian Smith in then Rhodesia.

6

As evidence of the long-standing relationship (unlawfully sponsored with public funds) between Myeni and Linnell, I attach hereto a copy of three 'open source' documents:

6.1

Annexure 'SJT-1' is a copy of a press ombudsman judgement in a complaint falsely brought by Myeni against a newspaper that exposed her unethical conduct at MWB in 2011.

6.2

Annexure 'SJT-2' is a copy of an on-line newspaper article dated 09 August 2015, which clearly shows Linnell is assisting Myeni to cover up her criminal conduct, by helping her lay false criminal charges against myself and then suspended CEO Monwabisi Kalawe. I note from this article that, as at that stage, Linnell had been paid more than R850,000.00 by SAA and yet there were no procurement procedures followed at all. That makes the payments to him classed as fruitless and wasteful expenditure. I also note that he is purporting to carry out 'background checks' and 'investigations' into both Paul O'Sullivan and Kalawe. I have checked with the Private Security Industry Regulatory Authority, '**PSIRA**' and it is apparent that Linnell is not registered with PSIRA to carry out investigative work, which is a criminal offence. I will come back to this later.

6.3

Annexure 'SJT-3' is a copy of an on-line newspaper article dated 07 April 2015, which suggests that Linnell was unlawfully hired by Eskom.

7

Gupta is a member of the now infamous Gupta family, which was during 2016 and 2017 found to have infiltrated Eskom and through fraudulent and corrupt practices removed at least R3 billion from Eskom. In this docket, I do not go into the detail of the R3 billion that was stolen from Eskom, but merely focus on how the suspects created the enabling environment for such theft.

7.1

Essa is a personal assistant to Tony Gupta and carried out a lot of his criminal activities for him.

8

Ngubane was at all material times, firstly a non-executive director of Eskom and then, the Chairman of Eskom.

CONDUCT GIVING RISE TO CRIMINAL COMPLAINT

9

On **2017-11-21**, at parliament in Cape Town and during a parliamentary enquiry into the criminal capture of Eskom, which capture predicate wholesale corruption and looting from Eskom's assets, a certain Mr Zola Andile Tsotsi, ('**Tsotsi**') gave evidence to the enquiry. **He gave that evidence under oath.** A copy of the document he presented to parliament is attached hereto, as **ANNEXURE 'SJT-4'**. It is necessary to carefully analyse what the Suspects have been up to, in respect of facilitating fraud and corruption at Eskom, which has run into Billions of Rand of tax-payer monies. I do this hereunder.

10

The sub-paragraphs contained at paragraph 4.1 through 4.19 of Annexure 'SJT-3' make it crystal clear that the suspects manipulated then board chair of Eskom to do the following:

- Unlawfully pressurise Tsotsi to do the bidding of Tony Gupta by threatening Tsotsi with the loss of his position as Chairman of Eskom.
- Unlawfully intervene and postpone a board meeting of Eskom.
- Unlawfully appoint Linnell in an 'advisory' capacity to the board chairman of Eskom. A similar unlawful role that Linnell had carried out, and continued to carry out for Myeni at SAA.
- Allow Linnell to unlawfully prepare letters of suspension for the purpose of unlawfully targeting certain named executives of Eskom.
- Unlawfully and in conspiracy with Tony Gupta, a business associate of Duduzane Zuma, and with Lynne Browne the responsible minister for Eskom, the suspects did intimidate Zola Tsotsi into complying with the wishes of the suspects, in bringing about the suspension of the four named executives.

11

Over and above what was contained in the document handed to parliament, Tsotsi was orally questioned and supplied certain answers. During this question and answer session, it became apparent that a meeting took place at Brown's house, during the period when Tsotsi was being manipulated by the suspects. According to Tsotsi, Gupta and Essa were present at that meeting with Brown, which allegation Brown attempted to deny.

12

It is clear to me now, and must be clear to the whole country, that the suspects acted with a common purpose in creating an enabling environment so that Gupta family businesses could 'capture' Eskom for their own nefarious reasons, including fraud and corruption on a massive scale. It must be noted that Duduzane Zuma (son of Zuma) was a shareholder and director of certain of the Gupta companies and therefore benefitted considerably from such criminal conspiracy by the suspects. The relationship between Zuma, his son and the Gupta's provides the compelling motive.

13

Furthermore, as is clear from paragraph 4.8, Linnell was introduced to Tsotsi as a lawyer. This alone would be a criminal offence, as Linnell is NOT a registered lawyer in South Africa, although he may have been one in Rhodesia, whilst helping to prop up the illegal regime of Ian Smith.

14

In respect of the testimony made by Zola Tsotsi to parliament, including the typed note he presented (Annexure 'SJT-4'), I formally request the police to obtain a detailed sworn statement from Tsotsi, dealing with the following additional points of clarity:

14.1

Setting out precisely who initiated the meeting referred to in paragraph 4.4, where the meeting took place and at what time.

14.2

Of paragraph 4.5, how was Tsotsi approached by Tony Gupta, where and what time did they meet. How long did the meeting last and when approached for the meeting, what was stated as the reason for the meeting. Also to explain when Tsotsi first met with Tony Gupta, or any other Gupta, where, how, when and why?

14.3

Of paragraph 4.6, at what time did Zuma call Tsotsi, and what was the originating and receiving number? Ditto of the acting Director General.

14.4

Of Paragraph 4.7, what date did Myeni call Tsotsi, what was the originating and receiving telephone numbers. How did Myeni come to be in contact with him, ie where did she get his number from?

14.5

Of paragraph 4.8, how did Tsotsi travel to Durban, flights details etc., what address did he meet Myeni, Thalete, Linnell and Zuma. Did Linnell give him a business card? What time did he arrive at and leave the address in Durban.

14.6

The relevant board meeting and People & Governance Committee meetings should also be obtained in an evidential manner.

14.7

The relevant e-mails, between the suspects and Tsotsi should also be obtained in a forensically verifiable manner. Additional sworn statements should be obtained by other directors (witnesses) at Eskom.

SJT

SUMMARY

15

It is therefore clear that the suspects, acting with a common purpose, did unlawfully and intentionally intimidate and manipulate Tsotsi and in so doing brought about the unlawful suspension and subsequent removal of some, from their posts, of certain executives of Eskom.

16

Subsequent to the removal of the named executives at Eskom, Mr Brian Molefe and Mr Anoj Singh and Mr Ben Ngubane, took full autocratic control of Eskom and proceeded to criminally strip the assets of Eskom, to the benefit of the Gupta controlled companies, and other companies linked thereto. Duduzane Zuma personally benefitted from such unlawful asset stripping.

17

The creation of the enabling environment for the wholesale looting of Eskom, was created by the suspects named above acting as a 'criminal enterprise' and in common purpose with each other. Accordingly all of the suspects should be charged, not only with racketeering, but also of the theft of Eskom's assets, alternatively as accessories before the event, in respect of the theft.

18

I therefore request a thorough investigation into the conduct of the suspects. For the purposes of registering a Rand value to the crimes that have been committed against Eskom, I am using the purchase price of Optimum Coal of R2,150,000,000 (R2.15Bn).

19

It is clear that the *modus operandi* of the suspects, was to use intimidatory and criminally manipulative tactics to coerce Tsotsi into doing their bidding, by unlawfully removing Eskom executives, so that Messrs Singh and Molefe, who had successfully fleeced Transnet of Billions of Rand, could move from Transnet to Eskom and carry out a similar exercise there. Had they not been caught, both Molefe and Singh would have left Eskom as a skeleton, like they did with Transnet and moved onto the next State Owned Enterprise to strip it to the bone.

20

It is my contention that were it not for the criminal conduct of the suspects, in creating the enabling environment, Molefe, Singh and in turn, the Guptas and Duduzane Zuma, could not have pulled off their crimes. The suspects therefore stand to be charged, not only with the corruption and racketeering charges, but with being an accessory before the fact of all the crimes committed against Eskom. Additionally, Linnell should be charged with falsely holding himself out to be an attorney and carrying out work of a nature that requires him to be registered with PSIRA, without being in possession of such registration.

FURTHER CHARGES OF CORRUPTION & RACKETEERING

21

In addition to the above charges of corruption and racketeering against the suspects, I further request additional investigations into the alleged conduct of the current State Security Minister, Mr Bongani Bongo 'Bongo' and the current chairman of Eskom Mr Zethembe Khoza 'Khoza'. This additional investigation is most important and relates to the following allegations, which have surfaced recently in the media:

21.1

The 'evidence leader' in the parliamentary enquiry into Eskom, is a certain Advocate Ntuthuzelo Vanara 'Vanara'. It is his responsibility to lead the evidence to the parliamentary enquiry. As such he is a key member of the enquiry.

STP

Bongo is alleged to have repeatedly telephoned Vanara between 2017-10-04 and 2017-10-10 and pursued with him with an 'open-cheque' bribe to de-rail the parliamentary enquiry. The derailing process includes suggesting that Vanara should book off sick. Investigation needs to establish whether Bongo genuinely acted for and on behalf of the Eskom board as he claims, or whether he actually acted on behalf of Zuma, who appointed him to that ministerial position.

Prior to me signing this statement, I have carefully read through it and am satisfied that the facts are correctly and accurately recorded. The following questions were put to me in person by the commissioner of oaths and I entered the answers thereto in my own handwriting:

'Do you know and understand the contents of this statement?'

Yes

'Do you have any objection to taking the prescribed oath?'

No

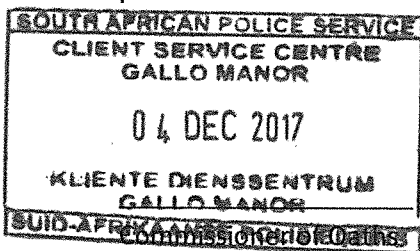
'Do you consider the prescribed oath binding on your conscience?'

Yes



SARAH-JANE TRENT

I certify that the deponent has acknowledged that she knows and understands the contents of this statement which was sworn to before me and the deponents signature was placed thereon in my presence at JOHANNESBURG on this TWENTY SEVENTH day of NOVEMBER 2017



04th December

Gallo Manor 2017/12/04 on 08:22 at

[Signature]
(HANDTEKENING) KOMMISSARIS VAN EDE
(SIGNATURE) COMMISSIONER OF OATHS

PHUTU SAMUEL MESHUPJE
VOLLE VOORNAAM EN VAN IN DRUKSKRIF
FULL FIRST NAMES AND SURNAME IN BLOCK LETTERS

NO 2 SUMMIT ROAD
BUSIGHEIDSADRES (STRAATADRES)
BUSINESS ADDRESS (STREET ADDRESS)

MORNINGSIDE, SANDTON
CONSTABLE

SA POLISDIENST
SA POLICE SERVICE

<http://www.presscouncil.org.za/Ruling/View/dudu-myeni-vs-zululand-fever-2267>

Dudu Myeni vs. Zululand Fever

Wed, Feb 29, 2012

Ruling by the Deputy Press Ombudsman

This ruling is based on the written submissions of Ms D. Myeni and the Zululand Fever newspaper.

Complaint

Ms Dudu Myeni, the former CEO of Mhlathuze Water (MW), complains about a story in the Zululand Fever, published on July 1, 2011 and headlined Former CEO lashes out at MW chairperson via parliament – Myeni continues to compromise the integrity of the President [Zuma] and [thinks] that she is 'unstoppable, untouchable and immune'. She complains in her personal capacity and as the chairperson of the MW Board.

Myeni complains that:

- the word "embattled" does not appear in a letter that the story is based on;
- the journalist sensationalizes former CEO of MW Silas Mbedzi's letter;
- the sub-heading can be interpreted as fact and not opinion, and that the balance of the story does not support it;
- the inclusion of Mbedzi's statement that she (Myeni) held anyone at ransom to get what she wanted is subjective, comment and unsubstantiated;
- the journalist probably did not get comment from the "numerous other persons and/or entities mentioned in the report";
- she was not given enough time to respond to the newspaper's questions;
- the statement that spokesperson and advisor Nick Linnell failed to respond to questions within a week after numerous requests by the newspaper is disingenuous; and
- the story, when seen as a whole, the story presents allegations as facts.

Analysis

The story, written by Jonathan Erasmus, says that Myeni is abusing her relationship with President Jacob Zuma in order to "get her own way" regarding the "embattled" water provider called Mhlathuze Water. This information is reportedly based on Mbedzi's 12 page written reply to various allegations against himself, which he addressed to the chairperson of the National Portfolio Committee on Water, Mr Johnny De Lange. In the process, he makes several allegations against Myeni. The story says Mbedzi wrote that Myeni, who is also the chairperson of the Jacob Zuma Foundation, sought "power, privilege and immunity" by "name dropping" her relationship with Zuma, "who she is believed to be close to". She reportedly also used Zuma's office to overturn ministerial decisions, attempted to suppress a forensic investigation into MW and sought protection from the ANC North Coast Regional Executive.

I shall now consider the merits of the complaint:

'Embattled' absent

The intro to the story calls MW "embattled".

Myeni complains that this term does not appear in Mbedzi's letter upon which the report is based. She says that nowhere does the story provide any support for this conclusion, other than the untested allegations of a journalist "who is clearly an interested party". She says: "The term is derogatory and unfair in context and underscores the perception that the report is biased."

SJT

The newspaper does not respond to this part of the complaint.

I do not know if the MW is “embattled” or not and neither is it my task to find out. My only question is whether the newspaper was justified in calling it such.

Given the serious nature of the allegations against the MW as contained in Mbedzi’s letter that the story reports on, I would think that the word “embattled” was indeed justified.

Letter sensationalized

Myeni says that the tone of Mbedzi’s letter is that of one who is personally aggrieved and who is “offloading”. She argues that Erasmus should therefore have been more cautious, enquiring and objective in his reporting – and yet the journalist “sensationalizes Mbedzi’s opinions”.

The newspaper does not respond to this part of the complaint.

Even if it was true that Mbedzi was personally aggrieved and was “offloading”, the newspaper still was justified to publish the contents of his letter.

“Sensationalism” can be described as a type of editorial bias in which events and topics in news stories and pieces are over-hyped to increase viewership or readership numbers. When comparing the content of Mbedzi’s letter (to de Lange) to the story itself, there is nothing to suggest that this was sensationalist reportage.

Sub-heading

The sub-headline reads: Myeni continues to compromise the integrity of the President [Zuma] and [thinks] that she is ‘unstoppable, untouchable and immune’.

Myeni complains that while the sub-heading is an accurate extract from Mbedzi’s letter, it is clearly his opinion and not a fact. She argues: “Although reported in quotations marks the comment to an ordinary reader carries a factual connotation.” She adds that the balance of the story does not support this comment.

The newspaper does not respond to this part of the complaint.

Myeni is correct – the sub-heading is an accurate extract from Mbedzi’s letter and it is presented as his opinion and not as a fact. However, it is not true that the balance of the story does not support this comment. The intro already alleges that she was abusing her relationship with Zuma to get her own way; it later mentions that she was seeking power, privilege and immunity by “name dropping” her relationship with Zuma; it ends off by saying that she seemingly held everyone at ransom to get what she wants and that, for her, it is about power, privilege and the immunity.

These examples substantiate the sub-headline and therefore meets the requirements of the Press Code.

Subjective comment unsubstantiated

The story says: “She (Myeni) seems to hold everyone at ransom to attain her objectives. For Dudu it is about power, privilege and the immunity that goes with these.”

Myeni complains that the inclusion of Mbedzi’s opinion is subjective, comment and unsubstantiated, which makes it derogatory, unfair and unbalanced. She adds that the journalist knew about the libelous nature of the accusations as he himself acknowledges this in an email to her in which he says: “They (the accusations) could border on defamation against both yourself and the National President.” She argues that the onus was therefore on the newspaper to corroborate the allegations before reporting them.

The newspaper does not respond to this part of the complaint.

This part of the complaint is frivolous. Mbedzi is free to express his views, which were within the boundaries of the SA Constitution and law, and the newspaper is free to publish those opinions.

No comment from other subjects

Myeni questions whether Erasmus obtained comment from the "numerous other persons and/or entities" mentioned in the story to verify the allegations and to get the necessary balance.

The newspaper does not respond to this part of the complaint.

However, the purpose of the story was not to establish if these allegations were true or not, but to make public the fact of these allegations.

Not given enough time to respond

Myeni complains that the newspaper did not give her enough time to respond.

She said the journalist wrote to her on June 21, 2011 at 20:42. This meant, she argues, that she was effectively contacted on June 22. She says that the request for a reply was for the Thursday edition and that that deadline was the very same day (June 22). She concludes that this was an unreasonable request, as she needed more time to respond because it would have required some consideration and consultation.

She says that there was an agreement between Linnell and the journalist not to publish without comment.

Myeni outlines further correspondence between Linnell and Erasmus:

- 14:27, June 28 – Erasmus requests when a response may be forthcoming;
- 17:51, June 28 – Linnell undertakes to respond by Thursday 30;
- 20:25, June 28 – the journalist says he requires a response by 16:00 on Wednesday 29;
- 20:52, June 28 – Linnell rejects the deadline and undertakes to provide a response by midday June 30;
- 09:25, June 29 – the journalist says that there was a agreement to meet the next publication date, stating that the story would be published with or without his comment;
- 14:30, June 29 – Linnell rejects the deadline, cautions the journalist about publication without comment, and references the complexity of the required response;
- 17:53, June 29 – the journalist says that the letter will be published without his comment; and
- 18:16, June 29 – the editor says that her advisors support publishing.

The Fever says that both Myeni and Linnell were notified of the story and that they were given ample time to reply. The newspaper says it encouraged them to do so "and yet neither was willing to respond to the actual accusations in the article". It says that Linnell instead appeared to be using stalling tactics in the form of thinly veiled threats. It argues that the fact that Myeni did not respond to its questions is "a reflection on her, not (on) the integrity of the Zululand Fever".

The newspaper also says that the matter was in the public interest, adding that it remains willing to interview Myeni face-to-face and to publish her views.

My task is to establish if the newspaper:

- undertook not to publish before it could get comment; and
- gave Myeni enough time to respond.

There are two references to a possible agreement in the documentation at my disposal. In the first case Linnell, on June 22, said: "I believe I have your undertaking not to publish the contents of the letter without first obtaining comment from Mhlathuze Water..."

5/12/15

I note that Erasmus did not respond to this statement.

On June 29 the journalist wrote: "Our agreement was that the response would be ready for our next publication."

Based on the evidence at my disposal, I have no reason to believe that the journalist went back on his word – there is no evidence place that he gave his word not to publish without Linnell's comment in the first place.

This leaves me with the question if Myeni had enough time to respond. For this, I need to take the amount of time as well as the complexity of the matter into account.

Firstly, Erasmus put his questions to Myeni in an email dated June 21, whilst the story was published on July 1. This gave MW six full working days in which to respond. This seems long enough a time.

So then: Was the matter was so complicated that 6 days (and an extra two weekend days, which may have been utilized) were not enough to come up with a considered response?

This leads me to the questions that Erasmus posed. In his email, the journalist first summarized eight key points contained in Mbedzi's letter. This clearly was done to make a response easier. Then the journalist asked four questions. The last of these questions would have kept MW busy longer than the others. It read: "Of the entire report, what do you dispute...?"

Now the focus shifts to the 12-page letter.

After having taken a thorough look at this document, I am convinced that a considered response would have taken quite some time – Mbedzi's document raised several issues that demanded some thorough investigation.

I also take into account the seriousness of the allegations against Myeni – the more serious they were, the more attention they deserved. And they were serious, all right.

However, when I weigh up all of these factors, I believe that the time that has elapsed from June 21 to June 29 should have afforded MW ample time to finalise its response. I therefore do not blame the newspaper for publishing without its comment.

'Failed to respond'

The story ends by stating: "He (Linnell) failed to respond to the questions within a week after numerous requests by the Fever."

Myeni complains that this is disingenuous, as it does not convey the documented communication between the parties. She argues: "An amplification of why he had 'failed' to respond would have placed an entirely different and objective context to the matter."

The newspaper does not respond to this part of the complaint.

Based on my argumentation above, I believe the sentence in dispute was justified – even though Linnell did indicate to the journalist that he did not have enough time to respond.

In context, allegations presented as facts

Myeni says that the context of the allegations and the urgency for publication (or the lack thereof) are also relevant. She says that the minister's reply to Parliament was eight months prior to publication and that Mbedzi's allegations had been well aired in the newspaper over the last year. She argues that there was therefore "no pressingly urgent public interest that would outweigh the benefit of the journalist having the facts that would inform a balanced and fair report and importantly mitigate the risk of what he termed 'defamation against both yourself and the National President'."

STOP

She adds that, taking the story as a whole, there is a ring of "truth or fact" in Mbedzi's allegations.

The newspaper does not respond to this part of the complaint.

I disagree with Myeni on this point. After having read the story several times, I believe that:

- it was balanced enough in that it does not confuse allegations with fact – and it presents the allegations as such; and
- the time that was afforded to MW was enough to negate the argument that there was no urgency in this matter – the decision to publish cannot be left in the hands of the public.

General

It is worrisome that the Fever responded to only one part of the complaint. This creates the impression that the newspaper did not take either the complaint/complainant or this office seriously enough.

Finding

The complaint is dismissed in its entirety.

Sanction

There is no sanction.

I am recommending, though, that Myeni takes up the newspaper's offer to publish her views (with equal prominence).

Appeal

Please note that our Complaints Procedures lay down that within seven days of receipt of this decision, anyone of the parties may apply for leave to appeal to the Chairperson of the SA Press Appeals Panel, Judge Ralph Zulman, fully setting out the grounds of appeal. He can be reached at khanyim@ombudsman.org.za.

Johan Retief
Deputy Press Ombudsman

STB

<http://city-press.news24.com/News/SAA-R167K-a-month-adviser-20150809>

SAA's R167K a month adviser

Susan Comrie 2015-08-09 17:30

SAA chairperson Dudu Myeni. Picture: Muntu Vilakazi/City Press

Undeterred by the airline's financial crisis, board chair Dudu Myeni hired Nick Linnell, whose exact role seems unclear. But it seems he's become SAA's Mr Fix-It

Despite national airline SAA being in severe financial trouble, chairperson Dudu Myeni's former spokesperson and adviser was brought on board at an average cost to the airline of R167 000 a month.

Nick Linnell, a former lawyer from Zimbabwe turned business consultant, was hired by SAA last year as an adviser to its board.

Linnell previously worked for Myeni as her spokesperson and adviser at the Mhlathuze Water Board, where Myeni has a long and tumultuous stint as chairperson.

In March, he was tapped by Eskom's then chairperson, Zola Tsotsi, to lead an external inquiry into the financial chaos at the parastatal. But after Tsotsi's departure, Eskom's board replaced Linnell because his proposed appointment had not gone through an open tender process.

It appears Linnell was initially hired by SAA to lead the investigation against former CEO Monwabisi Kalawe, but invoices seen by City Press suggest he has become SAA's Mr Fix-It, reviewing forensic reports, writing media statements, drafting letters to ministers and even lobbying police for a "high-level investigation" into forensic consultant Paul O'Sullivan.

Various invoices and billing memorandums indicate that between December and April, Linnell's Cape Town-based company, The Project Office, billed SAA for 517 hours of work at an average cost of R1 596 an hour.

He also claimed back R4 784.34 for hotel accommodation, R3 683 for airport parking and R5 382.20 for phone calls and printing. His total bill came to R835 276.54.

But Linnell's exact role at SAA remains unclear. Linnell told City Press that due to client confidentiality, he was "not at liberty to share details of specific work done".

Numerous entries show he has billed SAA for drafting press releases and replying to media queries. This is despite the fact that SAA already employs spokesperson Tlali Tlali on a salary of more than R100 000 a month.

Although Linnell is not registered as a lawyer or an auditor, he also appears to have spent many hours reviewing forensic reports, legal opinions and affidavits, building case files and liaising with law firm ENSafrica.

In response, Linnell said: "I am not a practising attorney and don't suggest so. Any professional services that we require, be they accounting or legal, are provided by one or more of the large professional firms that we use routinely."

However, SAA already pays for the services of two of ENSafrica's most experienced lawyers, Steven Powell (director of forensics) and George van Niekerk (director of dispute resolution).

City Press sent SAA a list of detailed questions about Linnell's role last week, but the airline failed to comment.

STPS

However, an insider with insight into the SAA board insisted that, despite the cost, Linnell's appointment was good value for SAA because he was often the only person able to get through to Myeni and was helping to repair damaged relationships as well as give the chaotic board some direction.

The documents suggest that under the umbrella of the Kalawe investigation, SAA started paying Linnell to investigate O'Sullivan.

In an email to several state agencies, O'Sullivan accused Myeni of stashing millions of euros – supposedly the proceeds of corrupt deals – in foreign bank accounts. When O'Sullivan realised the bank statements were forgeries, he withdrew the allegations and apologised.

Despite SAA lawyers reaching an agreement with O'Sullivan, Myeni opened a criminal case against him for forgery and uttering. Invoices show that, since March, SAA has been paying for both Linnell and ENSafrica's work on Myeni's case against O'Sullivan.

Invoices show that Linnell billed SAA for various services, including "meeting with ENS team [regarding O'Sullivan] information and strategy", "discussions to secure high-level Hawks inquiry into [O'Sullivan] matter", "contact with Hawks officers [regarding O'Sullivan] matter", and "reviewing judgments on [O'Sullivan] and background checks".

Approached for comment, O'Sullivan said: "If she wants to get lawyers and go after me, she should be paying for it out of her own pocket."

Job cuts

Earlier this year, SAA announced that, despite numerous bailouts and guarantees, the airline's precarious financial position meant that it would need to cut up to 10% of its staff.

On Thursday, several trade unions went to the labour court to try to prevent SAA from retrenching any employees until they disclosed detailed information about the airline's finances.

Zenzo Mahlangu, general secretary of the SA Transport and Allied Workers' Union (Satawu), said: "All we see among them is spying against this one, spying against that one, this one taping that one – which is not actually improving the situation at SAA."

Instead of cutting the jobs of low-paid workers, some of whom earn about R5 000 a month, Satawu believes the focus of cost cuts should be in senior management.

"Hiring a consultant in our view is an acknowledgment of deficiencies in terms of capabilities within," Mahlangu said.

"In our view, SAA's problems lie within senior management and middle management. We think they have been sleeping for too long – they've got to a point where they think sleeping is acceptable."

STH

<http://www.destinyman.com/2015/04/07/tsotsis-man-dumped-as-eskom-board-appoints-new-inquiry-head/>

Tsotsi's man dumped as Eskom board appoints new inquiry head

April 7, 2015

Nick Linnell, the man behind the investigation into Eskom's inner workings has been dumped in the latest twist of boardroom dramas that have unfolded at the power utility in recent weeks

According to a *Business Day* report, Eskom's board has rejected the appointment of Linnell – the business turnaround consultant selected by former Eskom chairperson Zola Tsotsi – to conduct an independent inquiry into operations at the company.

Eskom spokesperson Khulu Phasiwe said the board did not believe that Tsotsi followed correct procedure when he selected Linnell.

"There is nothing wrong with him [Linnell] or his company," Phasiwe told *Fin24*. "The former chairperson had unilaterally appointed Linnell and did not follow proper corporate procedures."

President Jacob Zuma had allegedly instructed Tsotsi to implement the inquiry and to use Linnell as its head, *Business Day* reported on Tuesday.

According to the report Linnell, who headed up the inquiry into South African Airways (SAA) CEO Monwabisi Kalawe, has close ties with Zuma's close friend Dudu Myeni, who is the SAA chairperson.

Tsotsi stepped down on 31 March as chairperson, after the board sought his removal for alleged interference and for following incorrect procedure in implementing the inquiry.

He announced the inquiry on 12 March after suspending four senior executives, including CEO Tshediso Matona.

The inquiry's goal, which still remains the same, was to shed light on the poor performance of Eskom's generation plant, delays in bringing the new generation plant on stream, high costs of primary energy and cash flow challenges.

Phasiwe said the board had now followed the correct tender procedure and had chosen a company to conduct the inquiry.

An announcement about that selection should be made very soon, he said. Everything else about the inquiry and the suspension of the four senior executives remains in place.

Matona's urgent application to be re-instated was turned down by Labour Court Judge Benita Witcher last month and struck off the roll, leaving it to the Commission for Conciliation, Mediation and Arbitration to make a conclusive determination on whether Matona's suspension was fair or not.

—News24Wire

SJT

Statement to Portfolio Committee on Public Enterprises

I feel privileged to have been afforded the opportunity to appear before this committee so that I may make my contribution towards the unravelling of the issues that have contributed to current state of affairs at Eskom. The lapses in good corporate governance that have been occasioned by poor decision making have opened up the company to exploitation by unscrupulous rent seekers. Those of us who have been and continue to be at the forefront of these events, including any who may have even peripheral knowledge thereof, have both the responsibility and moral obligation to voluntarily provide this knowledge to this Committee and the nation.

In accordance with the information I received that Eskom will make available any documentation I may require in support of my preparation for my appearance before this Committee, I regret to say that, despite numerous requests, Eskom did not avail me a single document. I have therefore had to rely on my memory of the pertinent events during my tenure at Eskom. This is unfortunate as it limits my ability to support the work of this committee. Be that as it may, I am here committed to presenting my recollections to the best of my ability.

1. The TNA Contract

- 1.1 On my arrival at Eskom in 2011, there was an existing TNA contract which was in progress. It was due to expire in about June 2014. At the time of its expiry, Collin Matjila was Acting Chief Executive.
- 1.2 Mr Matjila acceded to the request that the contract be renewed. In so doing, he failed to apply a provision in the delegation of authority that enjoined him to deal with sponsorship through a Committee that was put in place to deal with such matters thus by-passing the process and acting outside of his delegation of authority. The finance Director among others in his management

team raised objections to his actions, contending that he used the wrong delegation of authority, and that the correct one would require him to make the decision on sponsorship as part of a Committee.

- 1.3 Mr Matjila disputed this position and proceeded to sign the contract. A whistle blower reported this action to the chairperson of the Audit and Risk Committee, stating that the acting CE had flouted procurement regulations. The ARC chairperson then brought the matter to the attention of the Board which duly delegated the ARC to institute an audit inquiry into the matter.
- 1.4 The ARC appointed Sizwe Ntsaluba Goboda who produced a report with a finding that Mr Matjila had interpreted his delegation of Authority incorrectly by using a wrong process to award the TNA contract, thereby infringing the provisions of the PFMA in that his authorised expenditure would then be irregular.
- 1.5 Mr Matjila then requested the Board to seek a legal opinion in this matter, to which the Board agreed.
- 1.6 The legal opinion was provided by the firm of Ledwaba Mazwai Attorneys who upheld the SNG findings that Mr Matjila had acted outside of his delegated authority and recommended that the Board discipline the Acting CE. At this point, Mr Matjila was no longer with the company as the substantive CE Mr Matona was then in office, so the Board could not institute disciplinary action after the fact. Further, the lawyers advised that cancellation of the contract would result in expensive litigation and serious losses to the company. They also afforded the Board advice that meant accepting the contract, i.e, ratifying it meant accepting responsibility for Mr Matjila's breach. After deliberations the Board accepted this advice as an irregular expenditure finding was too ghastly to contemplate. The board then resolved to let the contract run the remaining few months of the extension.

2. IT Procurement

- 2.1 I had established a practice of having regular weekly briefing meetings with the Chief Executive. At the time of the procurement of the IT services, Mr Matjila was Acting CE. It was in one of these meetings that I was, for the first time, informed that there was an IT services procurement process in progress to replace T- Systems contract.
- 2.2 I next learnt from the report of the Board Tender Committee (BTC) to the Board that the process had hit an impasse in that the negotiations with the preferred bidders were unsuccessful. Consequently the recommendation to the BTC was to extend the T-systems contract for a further 2 years.
- 2.3 To the best of my recollection, circumstances of the suspension of Mr Sal Laher were never raised at the Board, neither before nor after the suspension.

3. The Duvha Boiler

- 3.1 The procurement process of the Duvha Boiler was started after my time at Eskom. I therefore have no knowledge of this matter.

4. Suspension of 4 Executives

- 4.1 In order to do justice to the matter of the circumstances surrounding the suspension of Messrs Matona, Koko, Morokane and Molefe, please indulge me to sketch some of the events that occurred prior to this, which events take us to the time of the appointment of the new Board in early December 2014.
- 4.2 During the first 6 or so weeks the new Board members were busy with inductions and only started to get to grips with Eskom's business towards the end of January 2015.
- 4.3 In the period from the arrival of Minister Brown at Public Enterprises Department in May 2014 till the new Board was in place, I had been trying to

cultivate a working relationship with the Minister and aspired to achieve one similar to how I related with the previous Minister Gigaba.

- 4.4 It became patently clear to me that I was not succeeding in this regard when the Minister called me to a meeting a day or two before the State of the Nation Address (SONA) in February 2015. At this meeting, she stated as follows: "Chairman, I have received complaints from management and Board members that you are interfering in management. Please refrain from doing so, because if you don't, I shall have to find someone else to do your job!" My response was "Minister, most Board members hardly know what I look like, let alone not having worked with me yet. As for management, if scrutinising their decisions and behaviour and calling them to account constitutes interference with management, then I will happily continue doing so. If you had acceded to my request that we have regular briefing sessions, even this meeting would not have been necessary" where upon the Minister responded by saying, "Chairman, you go and do what you have to do, I will go and do what I have to, there is no reason for you and I to talk about anything." That is how the meeting ended.
- 4.5 The very same afternoon, I was approached by Tony Gupta (Tony) who requested that we meet. At the meeting, Tony told me "Chairman, you are not helping us with anything. We are the ones who put you in the position you are in. We are the ones who can take you out!" My response was "Do what you have to do, and let me carry on with the job that the Cabinet appointed me to do!" So ended that meeting.
- 4.6 It is at this time that I felt that some sinister clouds are gathering because the coincidence of the two events was not lost on me. Our first Board meeting was scheduled for 26 February 2015. On the evening of the eve of the meeting day, I received a phone call from the President of the Republic of South Africa (the President) who informed me that he had tried to get hold of the Minister and Deputy Minister to no avail. The President said he was able to locate the Acting Director General and asked if she has spoken to me, which at that point she had not. The President then informed me that the Board meeting will not

be taking place and that the Acting DG will call me to ask me to postpone it. Shortly thereafter I received a call from the Acting DG to say that the Minister has asked that the meeting be postponed. When I asked for the reasons for the postponement, I was told that the Minister had not given any. I then had the postponement communicated to the Board members.

- 4.7 The totality of these events had generated some apprehension in me about things to come. Hardly a week later, I was called by Dudu Myeni. She said that I should avail myself for an audience with the President, and declined to discuss any details over the phone.
- 4.8 On or about 7 March 2015, I arrived at the Durban Presidential residence and was met by Dudu Myeni, her son Talent, and a certain Mr Nick Lennell, who was introduced to me as a lawyer. Ms Myeni then proceeded to outline the purpose of the meeting, namely, that the situation of Eskom's financial stress and poor technical performance warrants that an inquiry into the company be instituted. She further elaborated that, in the course of the said enquiry, 3 executives namely, Acting CE Tsediso Matona, Group Executive for Group Capital Dan Marokane, and Group Executive for Commercial Matshela Koko, are to be suspended.
- 4.9 I found this matter altogether shocking and proceeded to question the need for suspending these executives as I saw this as a recipe for inducing instability in the company. She retorted that even the War Room was experiencing frustration with the decline in performance of the Company, and that the enquiry was essential. In her view, the suspension of the executives will not create difficulties because it will be explained that they are not accused of wrongdoing, but are being asked to allow space for the enquiry to proceed unencumbered by their presence.
- 4.10 Shortly hereafter the President entered. After some pleasantries, he requested to know what was up for discussion, whereupon Ms Myeni repeated what she had previously stated. The President then enquired if I knew who the executives are who were to be suspended, to which I responded that I would prefer that I consult the HR Rules of the company to check if there is provision

for recusal rather than suspensions to achieve the same objective. Ms Myeni stated that Mr Lennell had assisted her with a similar situation at SAA and is being made available to assist. Mr Lennell then proposed that he draft a resolution for me to present to the Board setting out the rationale for the enquiry. The meeting ended.

- 4.11 I convened a Board meeting on 09 March 2015 where I presented the proposed resolution. The Board expressed its discomfort with this approach and instead proposed that the Minister be invited to engage on this matter with the Board.
- 4.12 The Board meeting with the Minister in attendance was convened on 11 March 2015. The Minister gave her support for the inquiry as well as for the suspensions of the 3 executives. The Board then resolved to proceed with both the inquiry and suspensions of the 3 executives. It also mandated the Audit and Risk Committee (ARC) to prepare the Terms of Reference for the inquiry, as well as the People and Governance Committee (P&G) to effect the suspensions.
- 4.13 At the inception of the P&G Committee meeting following the Board meeting, 2 astonishing events occurred. Firstly, Dr. Ben Ngubane stated that the name of the Financial Director must be added to the list of executives to be suspended. I immediately raised furious objections. For one, this executive's name was not among the names approved by the Board. More importantly, suspending the FD is going to generate shock waves even internationally especially with our investors and lenders because the FD is seen as the custodian of their investments. Dr. Ngubane responded that the Minister had instructed that the FD's name be added. I immediately called the Minister to raise my concerns and objection, but she rebuffed me.
- 4.14 The second astonishing event had to do with the appointment of the executives who had to act for those suspended. Hardly an hour after the end of the Board meeting which decided on the suspensions, Ms Chwayita Mabude was announcing the names in the P&G of the executives who were going to act. I immediately protested that nobody in the Committee, Ms

Mabude included, other than myself, would have known which executives were suitable replacements. Once again Dr, Ngubane stated that these names came from the Minister.

- 4.15 Mr. Lennell assisted P&G in drafting the suspension letters, which were then individually handed out. I was at pains to assure all the executives that had there been any provision for their recusal other than suspension, we would have preferred to apply it, and also that their suspension does not mean they have been found guilty of any wrongdoing.
- 4.16 The following morning, 12 March 2015 at 10h00, I addressed a press conference wherein I announced the suspension of the 4 executives and the Company's intention to institute an inquiry.
- 4.17 The afternoon of the same day I was to have the most unpleasant and humiliating experience in all my tenure as Chairman. The head of Eskom Treasury informed me that our investors and lenders from across the world will be calling in to ask for an explanation of the actions of suspending the executives. Indeed I was on line with around 52 individuals trying to defend what essentially was an indefensible position.
- 4.18 Hardly a week went by and I was faced with having to defend myself against accusations from several board members that I was not consulting the Board in the preparatory work on the inquiry. The Board engaged a law firm to trump up charges against me that I am not fit to be a director of the Company. On 23 March, in the dead of night, I was given an ultimatum by the Board to resign or be charged with lack of fitness to be a director. I resigned under duress.
- 4.19 The termination of the services of the executives who left Eskom occurred after I had left.

In conclusion, I would like to state here that corruption is the scourge that is denying our people the opportunity of a decent and prosperous livelihood. It is the duty of all of us to rid our society of this evil. I therefore applaud the initiative taken by this

Honourable House to get to the bottom of maladministration at State Owned Enterprises. I wish the committee well in this endeavour.

Thank you.

5/1/15