



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

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1. Seek clarity. xx exam?
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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 HELD AT JOHANNESBURG (JUDICIAL COMMISSION)**

AFFIDAVIT

**APPLICATION IN TERMS OF RULE 3.3.6 OF THE RULES GOVERNING
PROCEEDINGS OF THE JUDICIAL COMMISSION OF INQUIRY INTO
ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE
PUBLIC SECTOR INCLUDING ORGANS OF STATE**

I, the undersigned,

MBULELO BABALO GINGCANA

do hereby make oath and state that:

1. I am an adult male currently employed by the South African Civil Aviation Authority (SACAA) as a Senior Manager: Supply Chain Management. I am presently on suspension due to allegations raised in this Judicial Commission relating to myself.
2. The contents hereof are within my personal knowledge and belief, unless the context indicates otherwise, and as such are to the best of my knowledge and belief true and correct.
3. This affidavit is structured as follows:
 - 3.1 First, I make application in terms of Rule 3.3.6 of the Rules Governing Proceedings of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State (the Commission Rules);

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3.2 I then deal with the Notice I received in terms of Rule 3.3 of the Commission Rules:

3.3 I then set out the background and my response to the allegations raised in the Judicial Commission pertaining to myself.

3.4 Finally, I set out my response to Richard le Roux's statement and testimony.

Application in terms of Rule 3.3.6 of the Commission Rules

4. I have been informed by way of Notice that I have been implicated in alleged unlawful, illegal or improper conduct in the statement and testimony of Mr Richard le Roux, which statement and testimony was placed before this Judicial Commission.
5. I hereby make application to this Judicial Commission in terms of Rule 3.3.6 of the Commission Rules in order for me to be afforded an opportunity to:
 - 5.1 Give evidence myself; and or
 - 5.2 Call any witness to give evidence on my behalf; and or
 - 5.3 Cross examine any witness who implicates me in any wrongdoing before the Judicial Commission.
6. I respectfully submit that I have done nothing wrong and it is incumbent upon this Judicial Commission, in terms of the *audi alterem partem* rule, to hear my side, in order for my good name to be restored and protected.
7. In terms of Rule 3.4 of the Commission Rules, this affidavit is in response to Mr Richard le Roux's statement and testimony as placed before this Judicial Commission.
8. Wherefore I humbly pray that my application will be favourably considered by the Chairperson of the Judicial Commission, given the seriousness of the allegations raised against me.

Notice in terms of Rule 3.3 of the Commission Rules

9. I have been issued with an undated written Notice in terms of Rule 3.3 of the Commission Rules, (the Notice).

9.1. I received the aforementioned Notice, which was hand delivered to me by a messenger of the Judicial Commission on Friday 8 February 2019, for which I signed receipt thereof.

10. The Notice informed me as follows:

The Commission's Legal Team presented the evidence of Mr Richard le Roux at its hearing held on 31st January 2019, at 4th Floor, Hill on Empire, 16 Empire Road, Parktown, Johannesburg. The evidence in question implicates, or may implicate you, in unlawful, illegal or improper conduct in the respects set out below.

Due to the fact that you are implicated or may be implicated by the evidence of Mr Richard le Roux you are entitled to be assisted by a legal representative of your choice in these proceedings. In respect of the previous hearings, you may refer to the hearing transcripts, which are uploaded daily on the Commission's website (www.sastatecapture.org.za).

The allegations set out in the evidence of Mr Richard le Roux which implicates you, is in, inter alia, contained in paragraphs 50 to 62 of his statement wherein he alleges that Bosasa installed an alarm system, as well as a full CCTV IP Based System, a Brand new Gate motor and an intercom system. These installations were paid for by Bosasa for your benefit and were received by you at the time when you were employed by PRASA.

The evidence of Mr Richard le Roux which implicates you in the above allegations is set out in relevant portions of his statement and annexed hereto marked "A".

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The evidence of Mr Richard le Roux which implicates you in the above allegations is set out in relevant portions of the transcript annexed hereto marked "B".

If you wish to:

Give evidence yourself;

Call any witness to give evidence on your behalf; or

Cross-examine the witness;

Then you must apply, within fourteen (14) calendar days of this notice, in writing to the Commission for leave to do so.

An application referred to in paragraph 6 above must be submitted to the Secretary of the Commission. The application must be submitted with a statement from you in which you respond to the witness's statement in so far as it implicates you. The statement must identify which parts of the witness statement are disputed or denied and the grounds on which they are disputed or denied.

In the event that you believe that you have not been given a reasonable time from the issuance of this notice to the date on which the witness is to give evidence as set out above and you are prejudiced thereby, you may apply to the Commission in writing for such order as will ensure that you are not seriously prejudiced.

The witness statement and annexures thereto provided to you, are confidential. Your attention is drawn to regulations 11(3) and 12(2)(c) governing the Commission, which make it a criminal offence for anyone to disseminate or publish, without the written permission of the Chairperson, any document (which includes witness' statements) submitted to the Commission by any person in connection with the Commission's inquiry.

11. Rule 3.3 of the Commission Rules states as follows:

If the Commission's Legal Team intends to present to the Commission a witness, whose evidence implicates or may implicate another person, it must, through the Secretary of the Commission, notify that person ("implicated person") in writing within a reasonable time before the witness gives evidence:

- 3.3.1 *that he or she is, or may be, implicated by the witness's evidence;*
 - 3.3.2 *in what way he or she is, or may be, implicated and furnish him or her with the witness's statement or relevant portions of the statement;*
 - 3.3.3 *of the date when and the venue where the witness will give the evidence;*
 - 3.3.4 *that he or she may attend the hearing at which the witness gives evidence;*
 - 3.3.5 *that he or she may be assisted by a legal representative when the witness gives evidence;*
 - 3.3.6 *that, if he or she wishes:*
 - 3.3.6.1 *to give evidence himself or herself;*
 - 3.3.6.2 *to call any witness to give evidence on his or her behalf; or*
 - 3.3.6.3 *to cross-examine the witness;*
- He or she must, within two weeks from the date of notice, apply in writing to the Commission for leave to do so; and*
- 3.3.7 *that the Chairperson will decide the application.*

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12. I pause to mention that, notwithstanding the Commission Rules prescribing that I must receive prior written notice to a witness giving evidence which may or does implicate me, I only received such notice after I was implicated by a witness before the Judicial Commission.
13. The specific allegations raised against me before the Judicial Commission by Mr Richard le Roux as contained in paragraphs 50 and 51 of Mr le Roux's statement is as follows:

7.1. "PROJECT PRASA

13.1.1 Syvion Dhlamini and Angelo Agrizzi requested that we do a security analysis and installation for a certain Mr Mbulelo at Randburg. The project name was just Project PRASA we installed the following:

13.1.1.1 Alarm System, as well as a full CCTV IP Based System;

13.1.1.2 Brand new Gate motor; and

13.1.1.3 Intercom system.

13.1.2 The total value of the above was approximately R150 000.00" (sic).

14. Importantly, and notwithstanding the Notice I received in terms of Rule 3.3 of the Commission Rules as indicated herein above, there is no allegation of unlawful, illegal or improper conduct raised against myself before the Judicial Commission, save that a security upgrade was done at my home by a Bosasa affiliated company.
15. Nothing before the Judicial Commission suggests that there was *quid pro quo* based on my position to the benefit of Bosasa or any of its affiliated companies. In any event, any such suggestion would be malicious and vexatious, to say the least, as it would be tantamount to defamation.
16. I will deal with the transcripts of Mr Richard le Roux's testimony herein below.

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Background and my Response to the Allegations

17. I was employed by SACAA since 6 April 1999, where I started as an administrative officer and progressed to the position of Senior Manager: Supply Chain Management, commencing in the latter position August 2003. I currently still occupy this position.
18. I purchased my current home in which I reside, situated at 15 Witels Close, Randpark Ridge, Randburg, during 2006.
19. On or around 2013/2014 I met Syvion Dhlamini at a security expo, whereafter we became friends.
20. On or around 2016 Syvion Dhlamini visited me at my home, where he mentioned to me that from what he can see, my security system did not seem adequate and suggested that I needed an upgrade.
21. I then asked him how much it would cost for the proposed upgrade, as I knew he was involved in the security industry, whereby he told me that he (Mr Dhlamini) could do the upgrade, and the costs for a decent upgraded home alarm system, with CCTV cameras, an intercom system and a new gate motor would be in the region of around R40 000 to R50 000 (forty to fifty thousand rands).
22. Based on this verbal estimated quote, I then told Syvion Dhlamini that I would want the aforementioned upgrade done but only after September 2016, as I normally get my annual bonus around that time.
23. The upgraded security system as proposed above was installed and fitted around April 2017. After the installation was completed, I frequently asked Syvion Dhlamini for the invoice in order for me to pay, to which he would say that it will be sent to me. However, to date I still did not receive an invoice.



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24. At no stage did Syvion Dhlamini say the installation of the security upgrade was for free, and I was at all material times, even currently, able and willing to pay for it. However, as stated, I did not receive an invoice.
25. I was seconded from SACAA to Passenger Rail Agency of South Africa (PRASA) around October 2015 until October 2016 in the position of acting Chief Procurement Officer. My primary duties and responsibilities were, amongst other, to ensure that all procurement systems and procedures were in place in order to ensure accountability, compliance and working towards clean audits. Furthermore, I did not form part of any procurement nor any bid committees.
26. Then, from November 2016 to July 2017 I was seconded to National Treasury in the office of the Chief Procurement Office, where my primary duties were, amongst other, to assist in developing supply chain management systems for the various organs of state and state owned enterprises in order to ensure streamlining of supply chain management, accountability and compliance. Furthermore, here I also did not form part of any procurement nor any bid committees.
27. As far as I know, neither SACAA, PRASA nor National Treasury has done any business with Bosasa or any of its affiliated companies, especially during my secondment or work period, or at all.
28. I also submit that I did not assist either Bosasa or any of its affiliated companies with acquiring any business from any organ of state, any state owned enterprise or any other business, either directly or indirectly or by implication.
29. At the time of the security upgrade at my home, it was not merely a favour from a friend, as I was always willing to pay.
30. The following equipment with current cost estimates were installed at my home:

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- 30.1 A home alarm system - Current value around R20 000;
- 30.2 Gate motor: Centurion D5 - Current value around R4 000;
- 30.3 Centurion G/Speak Intercom System - Current value around R4 000;
- 30.4 7 Hikvision camera system complete - Current value around R10 000;

The above current (2019) prices, total amount being less than R40 000, was obtained from an independent supplier in the industry and confirmed by a mere search on the internet for pricing. Should the Judicial Commission require a written quotation in this regard, same will be provided.

- 31. Since it is being suggested that the security upgrade to my home in 2017 was in the region of around R150 000 (one hundred and fifty thousand rands), I dispute this amount based on the actual equipment fitted and the verbal quote I obtained from Mr Dhlamini, and based on the prices I obtained aforementioned.
- 32. Accordingly, the actual costs associated with my security upgrade installation must be investigated as it could purposefully have been inflated by those doing the installation, for reasons unknown to me but amongst other, ulterior motive.

My Response to Richard le Roux's Statement and Testimony

- 33. I will now respond to the averments in Mr Richard le Roux's statement and testimony.
- 34. I do not intend to respond to each and every allegation as contained in Mr Richard le Roux's statement and testimony. My failure to do so should not be construed as an admission of the correctness and or veracity thereof, and my rights to respond thereto at the appropriate time and in the appropriate forum are expressly reserved.

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35. Ad Paragraph 50

- 35.1. I do not know why the project name was "Project Prasa", as there was no such project linked to PRASA, nor myself as a secondee to PRASA at the time. The installation was a private affair arranged by Syvion Dhlamini with myself for which I was and am willing to pay, subject to invoice.
- 35.2. The only time I became aware of the purported project name was when I received Mr Richard le Roux's statement.
- 35.3. Furthermore, I do not know why Mr Angelo Agrizzi also purportedly or allegedly requested my security upgrades, if so at all, as I do not know Mr Agrizzi, nor did I ever speak to him, let alone about my envisaged security upgrades.

36. Ad Paragraphs 50.1; 50.2 and 50.3

- 36.1. I confirm that the alarm system with 7 CCTV cameras IP based system, together with a new gate motor and intercom system were installed at my premises.

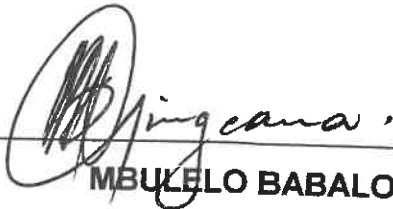
37. Ad paragraph 51

- 37.1. I dispute that the total value of the security upgraded equipment installed at my home was R150 000, or remotely close to that value. I submit that the security equipment value could not have been more than R40 000 as indicated herein above. This issue needs to be investigated as money could have been laundered in this manner or stolen from the company who done the installation.

38. **Ad page 101 of transcript (Line 3)**

38.1. I was aware that Syvion Dhlamini was at my home at some stage when the security upgrade installation commenced as he told me so. I am not aware that Angelo Agrizzi was at my home, nor was I ever told of such, nor would there be any reason for him to be there.

39. I respectfully reserve my right to add, amend and or amplify my submissions herein, if and when needed.


 MBULELO BABALO GINGCANA

I certify that the Deponent has knowledge that he/she knows and understands the contents of this affidavit which was signed and sworn to before me at ^{HONEYDEW} JOHANNESBURG on this 22 day of FEBRUARY 2019, and the provisions of the Regulations contained in Government Notice R2477 of November 1984, as amended, have been complied with.

 P.J. Moloo *Capt*
 COMMISSIONER OF OATHS



**AFFIDAVIT IN RESPONSE TO APPLICATION IN TERMS OF RULE 3.3.6
BY MR MBULELO BABALO GINGCANA**

I, the undersigned,

RICHARD LE ROUX

do hereby make oath and say as follows: The facts herein contained, are save where otherwise apparent within my own personal knowledge and belief and are true and correct.

1. Ad Paragraph 17 – 23

I note the contents of these paragraphs, but I do not have personal knowledge of same. Save for the above and in particular paragraph 21 it is not correct that a home alarm system a CCTV camera system and intercom system and a new gate motor does not cost more than R40 000.00 to R50 000.00. I state that in the past approximately 19 years in my field of work if one includes the price of the equipment that are installed together with labour and transport costs which can easily be established the amounts given by Mr Mbulelo is wrong in fact the equipment costs, labour, installation material and transport must be taken into account.

Paragraph 24 - 26



Save for stating that I do not have knowledge of these facts in relation to his employment and duties I confirm that the security installation was done by the special projects team of BOSASA at Mr Mbulelo's house where I was personally involved and I confirm my previous testimony as to how the special projects team worked how the equipment was purchased in cash which I received from Mr Jacques van Zyl on the instruction of Mr Gavin Watson and/or the other directors of BOSASA and after it had been signed off by Mr Agrizzi.

2. Ad Paragraph 27 – 29

I note the contents of these paragraphs.

3. Ad Paragraph 30 – 32

I note the contents of these paragraphs and I dispute same and the invoices from the supplier Regal can be obtained and if one includes the costs of the equipment labour which was myself and four technicians it would probably be in excess of R150 000.00. I deny that I have any ulterior motive or that I inflated the prices.

4. Ad Paragraph 33 and 34

I note the contents of these paragraphs.

5. Ad Paragraph 35 (35.1; 35.3)



The reason why I named the project, project PRASA was because I was told that Mr Mbulelo was involved as head of procurement at PRASA and I gave the project that name.

Mr Mbulelo is not being honest with the Commission in respect of denying that he knows or spoke to Mr Agrizzi as I was present at the house on a Saturday afternoon when both Mr Agrizzi and Mr Dhlamini had a meeting with Mr Mbulelo and I waited outside the premises and only after I was requested to go and do a survey of the house once the meeting had been concluded. I remember specifically as Mr Agrizzi fetched me in a gold Maserati and I went with him to the house in order to do a survey of what security equipment was needed.

6. Ad Paragraph 36

I agree with the contents of this paragraph that was the security equipment installed by myself and the special projects team. I repeat that only top-grade equipment was purchased, and the requirement installed of HIK Vision camera systems Paradox alarm systems and Centurion gate motor and Centurion G-Talk intercom system. One has to also include installation material, labour and transport.

7. Ad Paragraph 37

I confirm that it is an easy exercise to calculate the value of the equipment plus the costs of the labour and the transport and it was

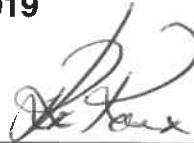


indeed R150 000.00 plus being the costs involved. I deny that any money was laundered or stolen from the company being BOSASA special projects including myself and my team. Mr Mbulelo is unfortunately deflecting from the truth and the facts.

8. Ad Paragraph 38

Save for confirming that Mr Dhlamini was at the house I can confirm that Mr Agrizzi was there on the Saturday afternoon and after his meeting inside the house I then did the survey as requested. I was fetched and taken to the property by Mr Agrizzi that Saturday afternoon.

Dated at Krugersdorp on 04th day of April 2019



RICHARD LE ROUX

THIS DONE AND SIGNED BEFORE ME AT KRUGERSDORP THIS 4TH DAY OF APRIL 2019 THE DEPONENT HAVING ACKNOWLEDGED THAT HE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS DECLARATION AND CONSIDERS IT BINDING ON HIS CONSCIENCE, THE REGULATIONS CONTAINED IN GOVERNMENT NOTICE NUMBER R1258 OF 21 JULY 1972, AS AMENDED, AND GOVERNMENT NOTICE NO R1648 OF 19 AUGUST 1977, AS AMENDED, HAVING BEEN COMPLIED WITH.

The deponent has no objection in taking the Prescribed oath

S Magubane : LT COLONEL
S MAGUBANE

COMMISSIONER OF OATHS

IN THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE HELD AT JOHANNESBURG (JUDICIAL COMMISSION)

REPLYING AFFIDAVIT TO RICHARD LE ROUX'S RESPONSE AFFIDAVIT TO MY APPLICATION IN TERMS OF RULE 3.3.6 OF THE RULES GOVERNING PROCEEDINGS OF THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

I, the undersigned,

MBULELO BABALO GINGCANA

do hereby make oath and state that:

1. I am an adult male currently employed by the South African Civil Aviation Authority(SACAA) as a Senior Manager: Supply Chain Management. I am presently on suspension due to allegations raised in this Judicial Commission relating to myself.
2. The contents hereof are within my personal knowledge and belief, unless the context indicates otherwise, and as such are to the best of my knowledge and belief true and correct.
3. Where I make legal submissions, I do so on the advice of my legal representative.
4. I have read the affidavit of Mr Richard le Roux which he made in response to my application in terms of Rule 3.3.6 of the Commission's Rules.
5. Any failure to reply to any submission made by Mr Richard le Roux in his response affidavit should not be construed as acceptance in any way of such submission. Furthermore, I will only deal with the relevant factual allegations in

the said affidavit.

6. I now turn to deal with the allegations made in Mr Richard le Roux's response affidavit.

7. Ad Opening Paragraph

7.1 I deny that all the facts contained in Mr Richard le Roux's affidavits are true and correct.

8. Ad Paragraphs 1 – 2

8.1 I note the contents of the paragraphs. I deny that I am wrong in fact regarding the costs associated with the installation at my home being the subject of this disclosure, and I put Mr Richard le Roux to the test to prove by way of documentary evidence the costs associated with the installation at my home.

8.2 Mr Richard le Roux is also being generous with the truth when he suggests, albeit vaguely, confusingly and embarrassingly, that he received the instruction to do the installation "from Mr Jacques van Zyl on the instruction of Mr Gavin Watson and/or the other directors of BOSASA and after it had been signed off by MrAgrizzi".

8.2.2 In this regard, it is clear that Mr Richard le Roux does not know where the instruction to Mr Jacques van Zyl originated from as on his own version he is speculating, to say the least.

8.2.3 I furthermore put Mr Richard le Roux to the test to produce any documents pertaining his instruction herein, including the alleged instruction signed off by MrAgrizzi, as I do not have any knowledge about this.

8.2.4 I also re-emphasize the contents of paragraphs 14 and 15 of my affidavit made in terms of Rule 3.3.6.

9. Ad Paragraphs 3 – 4

9.1 I note the contents of these paragraphs and once more emphasize the contents of paragraphs 30 to 32 of my affidavit made in terms of Rule 3.3.6. I furthermore put Mr Richard le Roux to the test of proving the costs associated with the installation referred to at my home, as per his own say, its very easy to prove.

10. Ad Paragraph 5

10.1 I note the contents of this paragraph and deny the allegations pertaining to MrAgrizzi to the point that they are inconsistent with paragraphs 35.3 and 38.1 of my affidavit in support of my Application in terms of Rule 3.3.6.

11. Ad Paragraphs 6 – 7

11.1 I note the contents of these paragraphs and put Mr Richard le Roux to the proof to show the costs associated with my installation, as I agree its an easy exercise.

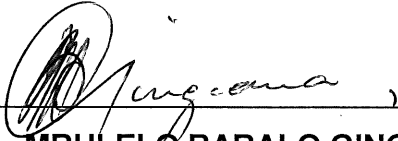
11.2 I deny that I am deflecting from the truth and facts, as I admitted as truth and fact that the equipment as alleged by Mr Richard le Roux had indeed been fitted at my home, albeit under the circumstances and for the costs as contained in my affidavit in support of my Application in terms of Rule 3.3.6.

12. Ad Paragraph 8

12.1 I note the content of this paragraph. Save to state that I am not aware

of MrAgrizzi being at my home on a Saturday, I respectfully refer to and re-emphasize the content of paragraphs 35.3 and 38.1 of my affidavit in support of my Application in terms of Rule 3.3.6.

13. I respectfully reserve my right to add, amend and or amplify my submissions herein, if and when needed.



MBULELO BABALO GINGCANA

I certify that the Deponent has knowledge that he/she knows and understands the contents of this affidavit which was signed and sworn to before me at JOHANNESBURG on this ____ day of JUNE 2019, and the provisions of the Regulations contained in Government Notice R2477 of November 1984, as amended, have been complied with.





COMMISSIONER OF OATHS