



EXHIBIT MM 7

**MAFIKA
MKWANAZI**



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

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The Judicial Commission of inquiry into allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State

Abridged Statement by: Mr Mafika Mkhwanazi

Date: 15 October 2019

Period of Statement December 2010-December 2013

1. MEETING THE GUPTAS

After I was appointed as Chairman in December 2010, I received a call in January 2011 from Mr Tony Gupta and he informed me that he got my contact details from Minister Gigaba and requested to meet me.

I obliged and on arrival, I handed my keys over to a valet who proceeded to park my vehicle. There is a particular manner in which they welcome you into their home. You take off your shoes, turn left, walk a long corridor. Whereupon I was met by Duduzane Zuma and a gentleman who introduced himself as Tony Gupta. At the start of the meeting we discussed what each of us were doing in the economy. Tony proceeded to introduce himself as a friend of the Zuma's, that they own Sahara Computers and they employ over 10000 people in their operations. I shared that I was looking into a potential property development in Kwa Zulu Natal that would cost above R1 billion. References made in The Mail and Guardian newspaper relate to this conversation about business.

He then explained that he is aware that Transnet has a Marketing budget of R1 Billion and that they want 30% to 50% of the 1 billion-rand budget allocated to The New Age newspaper. I told him that he was talking to the wrong person as the Chair of the Board is not involved in procurement processes. The practicalities of how this would be achieved were not explained to me nor did I bother to enquire. I advised him to follow the established Transnet procurement procedures. Duduzane said nothing the entire time.

I was contacted for a second meeting and I then requested Advocate Siyabonga Mahlangu (who was the special advisor to Minister Gigaba) to accompany me. My reasoning was that I needed a witness and if there was any substance to their allegations with regards to relations with members of parliament, Advocate Mahlangu would be in a position to relay my position on this strange arrangement with the Minister.

Tony reiterated the proposition he made in the initial meeting in the presence of Duduzane and Advocate Mahlangu. I gave them the same feedback that as Chairman I was not involved

in day to day procurement issues at Transnet. I then made it clear that I did not have any interest in seeing them again.

2. NEW AGE BREAKFASTS

I attended a total of eight (8) New Age breakfasts in my capacity as Board Chairman. These invitations would usually come from the Communications Department. On my arrival at the location there would be someone from Transnet to usher me into the function, I did not know their names and they would frequently change.

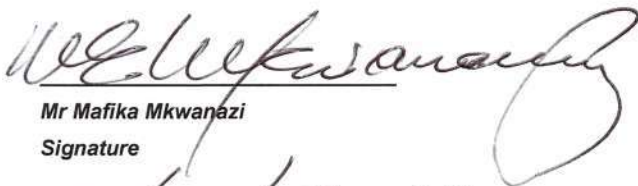
An unwritten modus operandi was that board members would not attend the same function simultaneously; I would therefore not be in attendance with other members. An exception to this would be where we attended the State of the Nation Address, we would be there at the same time the next day during the breakfasts.

The topics of discussions were the prerogative of the main speaker which would either be the Minister or Member of the Executive Council (MEC).

I have no context into how much Transnet spent on these breakfasts, I believe that the Commission will be able to source this information from the relevant department head.

Conclusion

In conclusion I would like to take this opportunity to thank the Commission and the investigators for their time and hope that I was able to assist in the successful completion of its mandate.



Mr Mafika Mkwanazi
Signature

15/10/2019
Date:

OTHER DOCUMENTS

IN THE JUDICIAL COMMISSION OF INQUIRY INTO THE ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE, HELD AT PARKTOWN NORTH, JOHANNESBURG (“the Commission”)

GIGABA, MALUSI KNOWLEDGE NKANYEZI

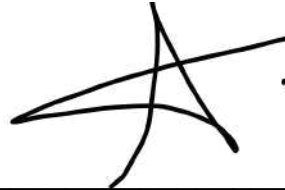
Applicant

APPLICATION IN TERMS OF RULE 3.3.6 (INCORPORATING A STATEMENT OF RESPONSE)

KINDLY TAKE NOTICE that the Applicant hereby files his statement of response to the statement of Mr. Mafika Mkhwanazi (“Mr. Mkhwanazi”) dated Tuesday, 15 October 2019 (“the Mkhwanazi statement”) and simultaneously applies to the Commission on date and at the time determined by the Chairperson of the Commission, for Directions in the following terms:

1. That the statement of response annexed hereto marked “**G1**” be admitted to the Commission as a response to the Mkhwanazi statement; and
2. That the Applicant be granted such further and alternative relief as the Chairperson of the Commission may deem fit.

DATED at Sandton, Johannesburg on Friday, 18 October 2019.



TSHABALALA ATTORNEYS, NOTARIES
AND CONVEYANCERS

Attorneys for the Applicant

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[/kim@tshabalala.com](mailto:kim@tshabalala.com)

REF: Mr TR Tshabalala/Miss K

Slaffa/jp/G01287

TO:

THE SECRETARY OF THE COMMISSION

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TEL: 010 214 0651

E-MAIL: secretary@commissionsc.org.za /BoipeloR@commissionsc.org.za

REF: Ms KB Shabalala

Filed with the Secretary of the Commission by e-mail

secretary@commissionsc.org.za

[/BoipeloR@commissionsc.org.za](mailto:BoipeloR@commissionsc.org.za)

on Friday, 18 October 2019

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

GIGABA, MALUSI KNOWLEDGE NKANYEZI

Applicant

APPLICATION IN TERMS OF RULE 3.3.6 (INCORPORATING A STATEMENT OF REPOSE BY MR MALUSI KNOWLEDGE NKANYEZI GIGABA)

I, the undersigned,

MALUSI KNOWLEDGE NKANYEZI GIGABA

do hereby make oath and say:

THE DEPONENT

1. I am:
 - 1.1 an adult male; and
 - 1.2 the Former Minister of *inter alia*, the Department of Public Enterprises.
2. The contents of this statement are within my personal knowledge and belief, save where the context indicates otherwise and are both true and correct.

PURPOSE OF THIS STATEMENT

3. The purpose of this statement is two-fold, namely to serve as:-
 - 3.1 a response to the statement of Mr. Mafika Mkhwanazi, the former chairperson of Transnet ("Mr. Mkhwanazi") dated Tuesday, 15 October 2019 ("the Mkhwanazi statement"); and
 - 3.2 a basis for an application in terms of Rule 3.3.6 for the Chairperson to admit this statement in response and rebuttal of the Mkhwanazi statement in so far as the said statement seeks to implicate me.

INTRODUCTION

4. On Wednesday, 16 October 2019 at 10h01, my attorney, Mr. Reginald Tshabalala ("Mr. Tshabalala") whose confirmatory affidavit is annexed hereto marked "A" received a notice in terms of Rule 3.3 from the Commission together with the Mkhwanazi statement ("the Rule 3.3 notice"). The Rule 3.3 notice indicated that Mr. Mkwanzazi would give evidence on Friday, 1 November 2019.

THE MKHWANAZI STATEMENT

5. The Mkhwanazi statement consists of two pages with two headings. The first heading is titled "MEETING THE GUPTAS" and the second heading is titled "NEW AGE BREAKFASTS" and refers to alleged events which occurred

between December 2010 to December 2013. During this time, I was a Minister of Public Enterprises and Transnet fell under my portfolio. Mr. Mkhwanazi was the chairperson of Transnet whom I held in high regard and still do.

6. I will respond to each of the headings in the Mkhwanazi statement *seriatim*.

7. AD PARAGRAPH 1: MEETING THE GUPTAS

7.1 Mr. Mkhwanazi states therein that he was informed by Mr. Tony Gupta that he (Mr. Tony Gupta) obtained Mr. Mkhwanazi's contact details from me. I did not give Mr. Mkhwanazi's contact details to Mr. Tony Gupta. If he had an issue with the fact that I gave Mr. Tony Gupta his contact details or that I played a hand in the arrangement of this meeting (which is denied), he should made contact with me about it.

7.2 It is not stated by Mr. Mkhwanazi that I:

7.2.1 instructed him to meet with Mr. Tony Gupta and even if I did (which is denied), Mr. Mkhwanazi would have been in a position to refuse;

7.2.2 made enquiries with him about the alleged meeting with Mr. Tony Gupta; and

- 7.2.3 made it my business to follow up on the said alleged meeting.
- 7.3 It appears to me that Mr. Mkhwanazi was happy to meet with Mr. Tony Gupta of his own accord such that he even shared with him that he (Mr. Mkhwanazi or Transnet) was looking into a potential property development in KwaZulu Natal that would cost R1 billion.
- 7.4 It is worth noting that Mr. Mkhwanazi never reported to me about this proposed meeting. As a chairperson of Transnet and if he felt that there was something which needed to be brought to my attention, he could and should have done so;
- 7.5 Mr. Mkhwanazi refers to a second meeting. This was presumably with Mr. Tony Gupta. I do not understand what Mr. Mkhwanazi is saying in this paragraph (relating to the second meeting). It is worth noting that he agreed to a second meeting with presumably, Mr. Tony Gupta in circumstances where he says that he was not comfortable to meet with him. What is further baffling is that Mr. Mkhwanazi does not either before or after this meeting, inform me about all of this.
- 7.6 I was not aware that Mr. Siyabonga Mahlangu (who was my special advisor at the time) attended a meeting with Mr. Mkhwanazi and Mr. Tony Gupta.

8. AD PARAGRAPH 2: NEW AGE BREAKFASTS

8.1 Although my name is not mentioned in this paragraph, I wish to state the following about Transnet and the New Age Breakfasts:-

8.1.1 On or about 3 June 2013, the office of the Public Protector ("the Public Protector") wrote to the Department of Public Enterprises ("the Department") in a letter annexed hereto marked "B";

8.1.2 The Public Protector indicated that she was investigating a complaint received by her office about the TNA contracts as constituting fruitless and wasteful expenditure in so far as four State owned entities were concerned. The Public Protector requested certain information from the Department. The said request for information by the Public Protector related to four State owned entities, namely:-

8.1.2.1 Eskom;

8.1.2.2 Transnet;

8.1.2.3 Telkom; and

8.1.2.4 SABC.

8.1.3 Eskom and Transnet fell within my portfolio as the Minister of Public Enterprises, whilst SABC and Telkom, which were also referred to therein, fell within the portfolio of the Minister of Communications;

8.1.4 I dealt with the said request from the Public Protector as follows:-

8.1.4.1 I instructed the Director-General of the Department at the time, Mr. Tshediso Matona ("Mr. Matona") to:-

8.1.4.1.1 acknowledge receipt and to fully cooperate with the said investigation by the Public Protector; and

8.1.4.1.2 ensure that the information requested by the Public Protector is furnished expeditiously by Eskom and Transnet directly to the Public Protector so that such information does not go through the Department as its officials were implicated.

- 8.1.4.2 Mr. Matona acknowledged receipt of the said letter from the Public Protector in writing annexed hereto marked "B" indicating the Department's attitude towards the said investigation and my instruction to him as aforesaid;
- 8.1.5 On 30 August 2013, I wrote to the Chairpersons of both Eskom and Transnet through the letters annexed hereto marked "C" and "D" respectively in terms whereof I, *inter alia*:-
- 8.1.5.1 informed them of the investigation by the Public Protector and indicated that both these entities' financial statements for the year ended 31 March 2013 did not disclose an amount of fruitless and wasteful expenditure and despite that, this needed to be tested by the investigation of the Public Protector;
- 8.1.5.2 informed that I expected them to have full and proper records that will assist the Public Protector to conclude the said investigation into the sponsorship made towards TNA business breakfasts;

8.1.5.3 attached the letter received from the Public Protector; and

8.1.5.4 instructed them to both expeditiously provide the Public Protector with the information requested, within a period of two weeks from receipt of my letter.

CONCLUSION

9 I deny that there is anything unlawful that I did. In the premises I submit that there was no wrong doing on my part as the shareholder in executing my duties on behalf of the State.

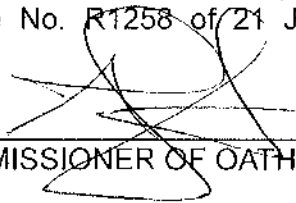
10 I therefore humbly apply for leave that this statement be admitted in rebuttal of the Mkhwanazi statement in so far as the Mkhwanazi statement seeks to implicate me.

11 To the extent that Mr. Mkhwanazi may at a later stage or during the hearing of his evidence, supplement the Mkhwanazi statement, in that regard, I reserve my rights to also supplement this statement and if necessary, to apply for leave to cross examine him.



DEPONENT

THUS SIGNED AND SWORN TO before me at Sandton on this the 18th day of October 2019 by the deponent who acknowledges that the deponent knows and understands the contents of this affidavit; that it is the truth to the best of the deponent's knowledge and belief and that the deponent has no objection to taking the prescribed oath and regards the same as binding on the deponent's conscience and the administration of the oath complied with the Regulations contained in Government Gazette No. R1258 of 21 July 1972, as amended.



COMMISSIONER OF OATHS

EX OFFICIO:
FULL NAMES:
PHYSICAL ADDRESS:
DESIGNATION:

ASHLEY JOY ADAMS
COMMISSIONER OF OATHS
EX OFFICIO
PRACTISING ATTORNEY - RSA
1ST FLOOR, 3 GWEN LANE
SANDTON

A
MKW

"A"

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

GIGABA, MALUSI KNOWLEDGE NKANYEZI

Applicant

CONFIRMATORY AFFIDAVIT

I, the undersigned,

TIRHANI REGINALD TSHABALALA

do hereby declare under oath as follows:

1. THE DEPONENT

I am:

- 1.1 a male duly enrolled attorney, conveyancer and notary public of the High Court of South Africa, practicing for my own account under name and style, Tshabalala Attorneys, Notaries and Conveyancers at First Floor, 3 Gwen Lane, Sandton, Johannesburg; and
- 1.2 the attorney of record for Mr. Malusi Knowledge Nkanyezi Gigaba ("Mr. Gigaba") in this matter.

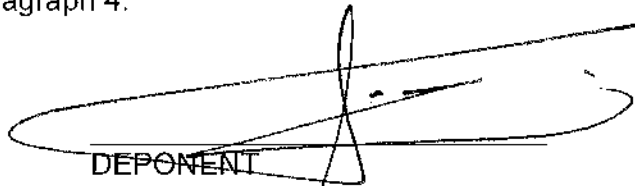

MKW

2. KNOWLEDGE OF FACTS

The facts herein contained, unless indicated to the contrary, fall within my own personal knowledge, and are both true and correct.

3. CONFIRMATION OF THE AFFIDAVIT OF MR. GIGABA

I have read the affidavit of Mr. Gigaba dated 18 October 2019 to which this affidavit is annexed and confirm the contents therein in so far as reference is made to me in particular paragraph 4.



DEPONENT

THUS SIGNED AND SWORN TO before me at Sandton on this the 18th day of October 2019 by the deponent who acknowledges that he knows and understands the contents of this affidavit; that it is the truth to the best of he knowledge and belief and that he has no objection to taking the prescribed oath and regards the same as binding on his conscience and the administration of the oath complied with the Regulations contained in Government Gazette No. R1258 of 21 July 1972, as amended.


COMMISSIONER OF OATHS

EX OFFICIO:
FULL NAMES:
PHYSICAL ADDRESS:
DESIGNATION:

ASHLEY JOY ADAMS
COMMISSIONER OF OATHS
EX OFFICIO
PRACTISING ATTORNEY - NISA
1ST FLOOR, 3 GWEN LANE
SANDTON


MKW *

TNA - LETTER FROM
DPE TO PF



public enterprises

Department:
Public Enterprises
REPUBLIC OF SOUTH AFRICA

Tel: (012) 431 1000 Fax: 086 501 2624 / 086 501 0629
Suite 301, Infotech Building 1090 Arcadia Street Hatfield, 0083 Private Bag X15 Hatfield 0028

Adv. Thuli Madonsela
Public Protector
Private Bag X 677
Pretoria
0001

Fax: 012 362 3473
Tel: 012 366 7000

Dear *Advocate,*

Investigation Into Allegations of Fruitless and Wasteful Expenditure by Public Enterprises in Connection with the Sponsorship of Several of the New Age Newspaper Breakfast Briefings Held on SABC2 Morning Live Show

Your letter dated 07 June 2013 refers.

It is unfortunate that the DPE has not been favored with particulars of the complaint laid by Advocate Anton Alberts. Nevertheless, I wish to express that the DPE considers a breach of any provision of the Public Finance Management Act (PFMA) serious and will ensure that your office is given full support and cooperation by the Department, Eskom and Transnet to conclude the investigation successfully.

I have noted your information requirements and wish to indicate that Eskom and Transnet have been instructed to expeditiously furnish the relevant documents directly to your office for the following reasons:

1. The two State-Owned Companies (SOC) are in possession of documents relating to their mandate and regulatory framework. In addition, the PFMA places clear responsibilities on the Board of SOC to maintain full and proper records of the financial affairs of the SOC; to prevent fruitless and wasteful expenditure; and to ensure spending is consistent with approved SOC policies. Accordingly, Eskom and Transnet's Board must be able to provide the information required to determine the merit of the allegations; and
2. The DPE is accused of having exerted undue influence on Transnet and Eskom to enter into the alleged sponsorship agreement with The New Age (TNA). Therefore, the Department considers it appropriate that its officials should not come into direct contact with the documents intended for your receipt.

☆
MKN

I have attached a copy of the communication issued to Eskom and Transnet, which formed part of the general correspondence issued by the Department relating to the use of sponsorship arrangements by the DPE's portfolio of SOC.

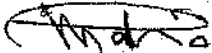
I also take this opportunity to advise that the DPE did not enter into any sponsorship agreement with Eskom, Transnet or TNA during the financial year ended 31 March 2013, which may relate to the alleged fruitless and wasteful expenditure.

It is unfortunate that I am unable to assist with regard to your requirements relating to Telkom and South African Broadcasting Corporation as the two SOC are not under the oversight portfolio of the Ministry of Public Enterprises. I trust that you will take the matter up with the Department of Communications.

I regret not being able to support your request in its original form and trust that you will appreciate the reasons for this.

I remain desirous to assist in ensuring that the DPE, Transnet and Eskom provide the requisite support and cooperation during your investigation. In light of the foregoing, I request that the DPE be furnished full particulars of the complaint.

Yours sincerely



Mr. Tshediso Matona
Director-General

Date: 26/8/2013

"C"

TNA - PP INVESTIGATION - RE-CTER
FROM DPE TO
TSOTSI



**MINISTER
PUBLIC ENTERPRISES
REPUBLIC OF SOUTH AFRICA**

Private Bag X16, Hatfield, 0028 Tel: 012 431 1616 Fax: 012 431 1039
Private Bag X9079, Cape Town, 8000 Tel: 021 481 6376/7 Fax: 021 465 2391/481 1741

Mr. Zoia Tsotsi
Chairperson
Eskom Holdings SOC Limited
P O BOX 1091
Johannesburg
2000

Fax: 011 800 5803
Tel: 011 800 2030

Dear Mr. Tsotsi

Investigation Into Allegations of Fruitless and Wasteful Expenditure by Public Enterprises in Connection with the Sponsorship of Several of the New Age Newspaper Breakfast Briefings Held on SABC2 Morning Live Show

The Director-General of the Department of Public Enterprises (DPE) received a letter dated 03 June 2013 from Advocate Thuli Madonsela (Public Protector).

The letter informs the DPE that the Public Protector is conducting an investigation into allegations of fruitless and wasteful expenditure incurred by Eskom, Transnet, Telkom and South African Broadcasting Corporation (SABC). The investigation is informed by a complaint laid with the Public Protector, which suggests that the DPE exerted undue influence on Eskom's decision to sponsor The New Age (TNA) Breakfast Briefings sessions that were aired on SABC2 Morning Live programme in 2012.

I have noted that Eskom's audited financial statements for the year ended 31 March 2013 did not disclose an amount of fruitless and wasteful expenditure. Despite this, the Public Protector has resolved to test the merit of the allegations and has thus requested the DPE to provide information that will assist in the investigation.

★
MKW

Although the Public Protector has requested the information from the DPE, the Public Finance Management Act (PFMA) is clear about the Board's responsibility relating to:


- fruitless and wasteful expenditure;
- the need to ensure that expenditure incurred complies with Eskom's operational policies; and
- the need to keep full and proper records of the financial affairs of Eskom.

I therefore expect Eskom to have full and proper records that will assist the Public Protector to conclude the investigation into the sponsorship made towards TNA Breakfast Briefings. The Public Protector's information requirements are set out in the letter addressed to the DPE, which is attached for your reference. Eskom must expeditiously provide the documents directly to the Public Protector within two weeks of the receipt of this correspondence.

Given that the DPE is implicated in this matter, it is also my desire to be copied the records to be issued to the Public Protector.

I wish to express that the Public Protector must be given the requisite cooperation and support in order to ensure that the investigation is concluded successfully.

Yours sincerely



MR MALUSI GIGABA, MP
MINISTER OF PUBLIC ENTERPRISES

DATE: 2013/08/30

"D"



**MINISTER
PUBLIC ENTERPRISES
REPUBLIC OF SOUTH AFRICA**

Private Bag X16, Hatfield, 0028 Tel: 012 431 1118 Fax: 012 431 1039
Private Bag X9079, Cape Town, 8000 Tel: 021 461 6375/7 Fax: 021 465 2381/461 1741

Mr Mafika Mkwanazi
Chairperson
Transnet (SOC) Limited
P.O Box 72501
Parkview
2122

Tel: 011 308 2309
Fax: 011 308 2315

Dear Mr Mkwanazi

Investigation into Allegations of Fruitless and Wasteful Expenditure by Public Enterprises in Connection with the Sponsorship of Several of the New Age Newspaper Breakfast Briefings Held on SABC2 Morning Live Show

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I have noted that Transnet's audited financial statements for the year ended 31 March 2013 did not disclose an amount of fruitless and wasteful expenditure. Despite this, the Public Protector has resolved to test the merit of the allegations and has thus requested the DPE to provide information that will assist in the investigation.

A
MKW

Although the Public Protector has requested the information from the DPE, the Public Finance Management Act (PFMA) is clear about the Board's responsibility relating to:

- fruitless and wasteful expenditure;
- the need to ensure that expenditure incurred complies with Transnet's operational policies; and
- the need to keep full and proper records of the financial affairs of Transnet.

I therefore expect Transnet to have full and proper records that will assist the Public Protector to conclude the investigation into the sponsorship made towards TNA Breakfast Briefings. The Public Protector's information requirements are set out in the letter addressed to the DPE, which is attached for your reference. Transnet must expeditiously provide the documents directly to the Public Protector within two weeks of the receipt of this correspondence.

Given that the DPE is implicated in this matter, it is also my desire to be copied the records to be issued to the Public Protector.

I wish to express that the Public Protector must be given the requisite cooperation and support in order to ensure that the investigation is concluded successfully.

Yours sincerely



MR MALUSI GIGABA, MP
MINISTER OF PUBLIC ENTERPRISES
DATE: 20/3/08/30

NEWS (HTTPS://MG.CO.ZA/SECTION/NEWS)

Going off the rails?

Sam Sole (https://mg.co.za/author/sam-sole-author), Craig McKune (https://mg.co.za/author/craig-mckune) 04 Mar 2011 00:00

LinkedIn

Twitter

Facebook

Email

COMMENTS (HTTPS://MG.CO.ZA/ARTICLE/2011-03-04-GOING-OFF-THE-RAILS#COMMENT_THREAD)

Several anomalies surround the appointment of former Public Investment Corporation boss Brian Molefe as the new chief executive of Transnet, the *Mail & Guardian* has discovered.

The Gupta family, who are close to President Jacob Zuma, this week denied weekend reports that they influenced the selection of Molefe, but details of the appointment process suggest a sham was put up to disguise a pre-arranged outcome.

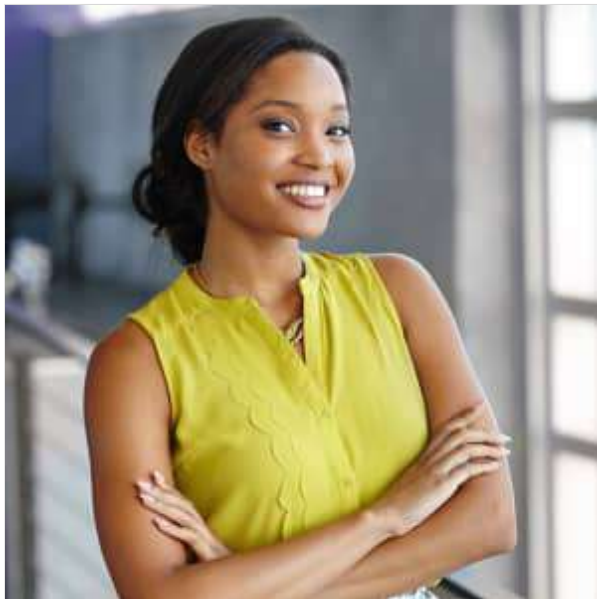
The evidence is circumstantial but compelling.

The advertisement for the position of chief executive was published on January 26 this year and candidates were given until February 1 to respond.

Public Enterprises Minister Malusi Gigaba announced the appointment of Molefe just two weeks later, on February 16.

Transnet says 63 applications were received and nine applicants were interviewed.

The board’s corporate governance and nominations committee, chaired by Transnet chairperson Mafika Mkwanazi, handled the entire process.



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Transnet declined to name other board members on the committee.

A senior executive with knowledge of Transnet board operations said the applications had to be vetted and interviews for busy executives and board members arranged. “Molefe’s appointment was miraculously quick.”

The appointment was swiftly followed by the resignation of Transnet non-executive director Juergen Schrempp, who had only been installed in December.

Transnet confirmed his resignation this week without explaining it. Schrempp, former chief executive of DaimlerChrysler, could not be reached for comment.

But the *Sunday Times* reported that he was unhappy about the handling of Molefe's appointment and because Mkwanazi submitted three names of candidates to Gigaba without prior board approval.

This week Transnet reiterated that the full board had approved the names.

The appointment also caused ructions among the ANC's alliance partners. A source close to Cosatu and the South African Communist Party said that both organisations had previously been given a commitment that Molefe would not get the job.

At the Public Investment Corporation (PIC), where he directed billions of rands in investments on behalf of the Government Employees Pension Fund (GEPPF), Molefe was seen as an Mbeki man who used his position to fund transactions for Mbeki associates.

Most resented were the deals with the Telkom Elephant Consortium and funding for the Afrisam buyout of Holcim cement, which led the GEPPF to write down more than half the R6-billion investment.

Last week Cosatu's central executive committee expressed anger at the "growing trend of lack of consultation" regarding parastatals, including the "appointment of the Transnet board and CEO [chief executive officer]".

Cosatu also announced an investigation into allegations "that the Gupta family uses underhand means and political influence to advance its interests".

This week, at a meeting with Cosatu leaders Zwelinzima Vavi and Sdumo Dlamini, Ajay Gupta and Zuma's son Duduzane rejected Cosatu's allegations.

Cosatu said they confirmed they were friends of Molefe but said they had not influenced his Transnet appointment.

The family also denied a May 2010 *M&G* report suggesting Molefe's PIC contract might have been extended for three months to facilitate the finalisation of the purchase of the Dominion uranium mine by the Guptas and Duduzane Zuma.

The Guptas and Molefe said separately this week that PIC had never approved funding for the mine, now called Shiva Uranium.

But the *M&G* has seen internal documentation showing that the PIC was intimately involved in the Shiva project.

Also a PIC employee said Molefe pushed for the project, which the investment committee eventually rejected as too risky.

Mkwanazi, who drove the appointment process, admits he has a personal relationship with the Guptas and has met them to discuss private business interests, but denied this influenced Molefe's appointment.

Asked what these business interests were and whether they were disclosed to the board, Transnet said: "All our board members are required to disclose their private interests at each and every board meeting ... Mr Mkwanazi has no existing business interests with the Gupta family. The discussions he's had with them were exploratory and did not result in a partnership."

A well-connected business person said that Gigaba was himself close to the Guptas. Answering questions about their relationship, the ministry said: "The minister met Mr Ajay Gupta in 2003, at which time he held no public office. They maintain cordial relations."

Perhaps most telling was the prediction in the Gupta-owned *The New Age* that Molefe would be appointed Transnet chief executive.

On December 7 last year the paper, without quoting its sources, said: "*The New Age* has it on good authority that Molefe will be appointed CEO by the board."

The paper correctly predicted other appointments to the new Transnet board, announced by Gigaba days later, including Mkwanazi, Zuma ally Don Mkhwanazi and Ellen Tshabalala, Zuma's BEE adviser.

Gama's return reeks of political meddling

The circumstances surrounding the reinstatement of Transnet executive Siyabonga Gama suggest a political solution to overcome the sidelining of a man senior ANC figures had punted to head the parastatal.

Last week Gama was reappointed to a position in the chairman's office following "a review of his dismissal", conveniently sidestepping an appeal process at a bargaining council due five days later.

The appeal was halted on the orders of chairperson Mafika Mkwanazi, who headed the review committee and confidentially settled with Gama, a spokesperson said.

Gama, the former chief executive of Transnet Freight Rail, was summarily dismissed last June after an independent arbiter found him guilty of "negligence" over the award of two contracts, including an R18.9-million security contract awarded to a company, GNS, part-owned by his golfing partner, former communications minister Siphiwe Nyanda.

Gama has long enjoyed high-level ANC support in his campaign to head the parastatal, including from Justice Minister Jeff Radebe and Nyanda himself.

He was dismissed under the watch of former public enterprises minister Barbara Hogan, who faced heavy political pressure over the action, and acting Transnet group chief executive Chris Wells.

Hogan was later fired in President Jacob Zuma's November Cabinet reshuffle and replaced by Malusi Gigaba, who immediately appointed a new board headed by Mkwanazi.

Wells announced he would resign by March 31, or as soon as a permanent GCE was found.

On December 15 Transnet's board announced Mkwanazi would assume the role of acting GCE, doubling as chairperson, which clashes with good governance principles.

Spokesperson Mboniso Sigonyela acknowledged that "combining the two positions is not ideal", but said it was a board decision "to facilitate a smooth handover to a new GCE".

Last month Gigaba appointed Brian Molefe to the position. A week later Gama was reinstated.

Transnet has not explained why the current board overturned the previous board's dismissal of Gama. Sigonyela said the board's corporate governance and nominations committee "dealt with the matter" and that Mkwanazi was asked to finalise it.

Sources close to the process told the *M&G* that Gama, who was appealing his dismissal, was to have a hearing via Transnet's bargaining council last Monday and that the previous week there was to be a sale in execution of his assets, worth R1-million.

This was in terms of a costs order against Gama, who had launched several challenges to the disciplinary process in the South Gauteng High Court.

Transnet had been awarded judgment to recover the costs by attaching Gama's assets, but had not yet proceeded to do so.

According to a source familiar with the matter the Transnet board sub-committee dealing with the disciplinary process received advice from attorney Chris Todd indicating that the prospects were good of having the disciplinary findings and dismissal of Gama confirmed.

Todd is a partner at Bowman Gilfillan, the firm representing Transnet against Gama.

But an 11th-hour order came for these processes to be halted, according to two of the sources.

It is understood that Transnet's legal department wrote to Bowman Gilfillan to say that on instructions from the chair and acting GCE—which in this case was the same man, Mkwanazi—the hearing and sale of assets should be put on hold to allow for negotiations.

It is understood that a review of Gama's disciplinary process and its outcome was ordered and advocates Dumisa Ntsebeza and Kameshni Pillay were consulted.

It is not clear what advice the advocates gave, but almost immediately after this, Gama's reinstatement was announced.

Neither Sigonyela nor Gigaba would say what the cost implications of the Gama settlement would be for Transnet, whether it would pursue the legal costs owed by Gama, or whether Transnet would back-pay the executive's salary and outstanding bonuses.

The 200-page disciplinary report on Gama describes serious negligence, a failure to carry out duties and dishonesty on his part.

It did not find evidence that he was “wilfully” negligent, but said both contracts were signed under “highly suspicious circumstances”.

Gama was found guilty on a third charge of causing “irretrievable breakdown” of trust between himself, Transnet and senior executives, who he accused of “malicious skulduggery” aimed at prejudicing his ambition to become GCE, which was found to be without basis.


The findings revealed that Nyanda and Gama played golf together and phone records showed they talked regularly.

Notably, they had a conversation just days before Gama authorised the GNS contract and Nyanda called him to commiserate after he was suspended last year.

Gama initially implied that he knew of Nyanda only “as any member of the public would”, but when confronted with the phone records, conceded this was incorrect.

Transnet is still pursuing a multimillion-rand civil suit against the Nyanda-linked security company, GNS.

Molefe will decide on the composition of his executive—and Gama’s new job—within two weeks.


 ([//www.amabhungane.co.za](http://www.amabhungane.co.za))

This article was produced by amaBhungane, investigators of the *M&G* Centre for Investigative Journalism, a nonprofit initiative to enhance capacity for investigative journalism in the public interest. www.amabhungane.co.za ([//www.amabhungane.co.za](http://www.amabhungane.co.za)).



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Mafika Mkwanazi takes over from Chris Wells - Transnet

Transnet |

16 December 2010

New chairman to assume executive responsibilities until permanent CEO is appointed

Transnet chairman to take on executive responsibilities

The Board of Directors of Transnet Limited wishes to announce that Mr. Mafika Mkwanazi has been tasked with the additional responsibility of assuming the group chief executive function with effect from December 16, 2010. He assumes all the responsibilities of the GCE role until the company finds a permanent candidate.

As chairman, finding a suitable candidate for the vacant position of group chief executive will be one of Mr. Mkwanazi's main responsibilities, after which he will return to his normal role. To that effect, the Board has appointed a Corporate Governance and Nominations Committee to run the process of appointing a GCE.

The current acting GCE, Mr. Chris Wells, who had resigned from the company with effect from March 31 2011, has been at the helm since March 2009. He had joined Transnet as chief financial officer in 2005.

Mr. Wells had indicated to the Board that he did not wish to be considered for a permanent role. In addition, Mr. Wells' resignation included a proviso that he would stand down from his current position as soon as an alternative was appointed - if prior to March 31 2011. Accordingly, Mr. Wells will relinquish the GCE position with immediate effect but will remain with the company until the end of the financial year to assist Mr. Mkwanazi with the handover and other matters to be agreed upon.

Commenting on Mr. Wells' tenure as acting GCE at Transnet, Mr. Mkwanazi says: "We wish to thank Mr. Wells for the sterling role he has played in keeping the business together over the last couple of years as acting group chief executive. He leaves in place a strong team led by capable executives, and a financially stable company. He has also played a significant role in Transnet maintaining an unprecedented capital investment programme for several years."

Mr. Mkwanazi adds that these achievements provide an excellent platform for Transnet to deliver on its mandate of creating and managing an efficient and productive logistics network in line with South Africa's New Growth Plan.

Commented Mr Wells. "I thoroughly enjoyed my stay and responsibilities at Transnet and it was a great pleasure to have an opportunity to contribute to both the company and the country. I am still available to assist whenever I am needed. Finally, I wish the Board and my colleagues all the best in future."

Statement issued by Mboniso Sigonyela on behalf of the Transnet Board of Directors, December 15 2010



PUBLIC PROTECTOR
SOUTH AFRICA

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HEAD OFFICE: PRETORIA

Private Bag X677, Pretoria 0001 • 175 Lunnon Street • Hillcrest Office Park, 0083
Tel: (012) 366 7000 • Fax: (012) 362 3473

Please quote this reference in your reply: 7/2 – 001451/13

Enquiries: Mr. R. Mataboge
Tel: (012) 366 7044 Fax: 086 6278 257
rodneym@pprotect.org

03 June 2013

Mr Tshediso Matona
The Director-General of the Department of Public Enterprises
Private Bag X15
Hatfield
0028

Dear Mr Matona

INVESTIGATION INTO ALLEGATIONS OF FRUITLESS AND WASTEFUL EXPENDITURE BY PUBLIC ENTERPRISES IN CONNECTION WITH THE SPONSORSHIP OF SEVERAL TNA (THE NEW AGE) NEWSPAPER BREAKFAST BRIEFINGS HELD ON SABC 2 MORNING LIVE PROGRAMME.

1. Kindly be informed that I am investigating a complaint from Advocate Anton Alberts in connection with allegations of fruitless and wasteful expenditure by Public Enterprises, namely; Transnet, Telkom, Eskom, and SABC in respect of sponsorship made towards The New Age Newspaper (TNA) Breakfast Briefing sessions that were broadcasted on SABC 2 Morning Live programme.
2. My investigation is conducted in terms of section 182(1) of the Constitution, 1996 read with sections 6 and 7 of the Public Protector Act, 1994.

3. In essence the allegations against the aforementioned public enterprises are *inter alia* the following;

3.1 That the Department exerted undue influence on the public enterprises to enter into an agreement with The New Age for the sponsorships.

3.2 That The New Age(TNA) newspaper was improperly sponsored by the aforementioned public enterprises for the hosting of numerous breakfast briefing sessions which were aired on SABC 2 Moring Live programme in 2012.

3.3 That a total amount of R36.7 million was paid by these public enterprises for 18 breakfast sessions hosted by TNA for the aforesaid business briefings.

3.4 That the sponsorship was ostensibly to advance various dubious public interests via these Business Breakfast briefing sessions.

3.5. That the said sponsorship was approved despite the alleged fact that TNA is not a member of the Audit Bureau of Circulation (ABC) and therefore its true circulation figures cannot be verified, which consequently makes no business sense for public enterprises to spend public funds for exposure via a newspaper brand that has no verifiable market reach.

4. To assist me in expediting my investigation, you are kindly requested to provide me with the following;

4.1. The Department's documents relating to the mandate, policy and regulatory framework regarding the aforesaid public enterprises.

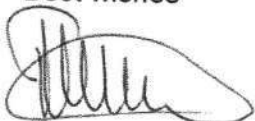
4.2 Policy documents on marketing and/or advertising of the aforesaid public enterprises.

4.2. Policy documents on sponsorships and donations of the said public enterprises.

4.3 Documents relating to the agreement entered into and/or between the Department (if any), public enterprises and The New Age for 2012/13 period.

- 4.4 Documents relating to invitations, proposals and request for sponsorship by TNA to these public enterprises.
- 4.5. Minutes of the Board meetings where such an agreement was discussed and approved.
- 4.6. Documents relating to the authorisation of funding and/or sponsorship for these breakfast briefing sessions.
- 4.7. All financial statements, quotations, and invoices pertaining to the payments made for these breakfast briefing sessions, including guests' attendance register, catering, invitation cards, audio-visual costs, and the event management contract.
- 4.8. And any other relevant information and documentation which may be of assistance to my investigation of this matter.
5. I would appreciate it if you could provide me with your response and the requested information and documentation at your earliest expediency, preferably not later than 20 June 2013 to enable me to conclude my investigation and issue a report.

Best wishes



ADV THULI MADONSELA

PUBLIC PROTECTOR OF

THE REPUBLIC OF SOUTH AFRICA

Date: 07/06/2013



**MINISTER
PUBLIC ENTERPRISES
REPUBLIC OF SOUTH AFRICA**

Private Bag X15, Hatfield, 0028 Tel: 012 431 1118 Fax: 012 431 1039
Private Bag X9079, Cape Town, 8000 Tel: 021 461 6376/7 Fax: 021 465 2381/461 1741

Mr Mafika Mkwanazi
Chairperson
Transnet (SOC) Limited
P.O Box 72501
Parkview
2122

Tel: 011 308 2309
Fax: 011 308 2315

Dear Mr Mkwanazi

Investigation into Allegations of Fruitless and Wasteful Expenditure by Public Enterprises in Connection with the Sponsorship of Several of the New Age Newspaper Breakfast Briefings Held on SABC2 Morning Live Show

The Director-General of the Department of Public Enterprises (DPE) received a letter dated 03 June 2013 from Advocate Thuli Madonsela (Public Protector).

The letter informs the DPE that the Public Protector is conducting an investigation into allegations of fruitless and wasteful expenditure incurred by Eskom, Transnet, Telkom and South African Broadcasting Corporation (SABC). The investigation is informed by a complaint laid with the Public Protector, which suggests that the DPE exerted undue influence on Transnet's decision to sponsor The New Age (TNA) Breakfast Briefings sessions that were aired on SABC2 Morning Live programme in 2012.

I have noted that Transnet's audited financial statements for the year ended 31 March 2013 did not disclose an amount of fruitless and wasteful expenditure. Despite this, the Public Protector has resolved to test the merit of the allegations and has thus requested the DPE to provide information that will assist in the investigation.

Although the Public Protector has requested the information from the DPE, the Public Finance Management Act (PFMA) is clear about the Board's responsibility relating to:

- fruitless and wasteful expenditure;
- the need to ensure that expenditure incurred complies with Transnet's operational policies; and
- the need to keep full and proper records of the financial affairs of Transnet.

I therefore expect Transnet to have full and proper records that will assist the Public Protector to conclude the investigation into the sponsorship made towards TNA Breakfast Briefings. The Public Protector's information requirements are set out in the letter addressed to the DPE, which is attached for your reference. Transnet must expeditiously provide the documents directly to the Public Protector within two weeks of the receipt of this correspondence.

Given that the DPE is implicated in this matter, it is also my desire to be copied the records to be issued to the Public Protector.

I wish to express that the Public Protector must be given the requisite cooperation and support in order to ensure that the investigation is concluded successfully.

Yours sincerely



MR MALUSI GIGABA, MP
MINISTER OF PUBLIC ENTERPRISES

DATE: 2013/08/30

Our Ref No: MM/ 17619

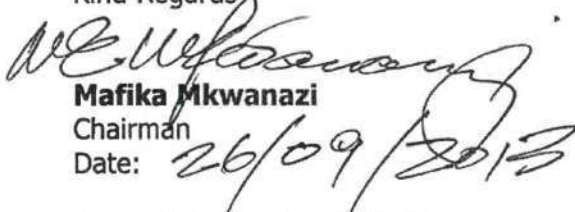
Adv Thuli Madonsela
Attention: Mr R. Mataboge
Public Protector South Africa
Private Bag x 677
PRETORIA
0001

Dear Ms Madonsela

RESPONDING TO THE PUBLIC PROTECTOR' S ALLEGED INVESTIGATION

1. This letter confirms receipt of your letter to the Director General of Public Enterprises dated 03 June 2013, with the reference number 7/2 – 001451/13. The Minister re-directed the letter to Transnet SOC Ltd on 30 August 2013, to respond to the request as far as it relates to the company.
2. The letter alleges that State Owned Companies, which includes Transnet, incurred "fruitless and wasteful expenditure" in respect of the partnership with The New Age. To expedite the investigation, Transnet wishes to provide the following documents:
 - i. The memorandum – authorising the partnership with The New Age in line with Transnet's Delegations of Authority;
 - ii. The proposal letter from The New Age for the partnership;
 - iii. The Transnet Brand Compliance Policy and Transnet Advertising Policy;
 - iv. The agreement entered into and/or between Transnet and The New Age for 2012/2013 period and;
 - v. Financial Statements, quotations and invoices pertaining to the payment made for the breakfast briefing sessions.
3. The company is not able to provide documents in respect to minutes of the Board meetings sanctioning the partnership mentioned above. The reason being that sponsorship, advertising and promotional activities are delegated to the Group Chief Executive as per the Delegations of Authority.
4. In conclusion the logistics on attendance register, catering, audio visual costs as well as event management contracts fell within the management ambit of The New Age.

Kind Regards



Mafika Mkwanzazi
Chairman

Date: 26/09/2013

Cc: Minister Malusi Gigaba,
Minister of Public Enterprises

Transnet SOC Ltd
Registration Number
1990/000900/30

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Johannesburg
2001

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F +27 11 308 2315

Directors: ME Mkwanzazi (Chairman) B Molefe* (Group Chief Executive) MA Fanucchi Y Forbes HD Gazendam NP Mnxasana N Moola NR Njeke IM Sharma
IB Skosana E Tshabalala DLJ Tshepe A Singh* (Group Chief Financial Officer)
*Executive

www.transnet.net

**CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF
STATE ("THE COMMISSION")**

**AFFIDAVIT OF THE EXECUTIVE MANAGER FOR CORPORATE AND PUBLIC
AFFAIRS OF TRANSNET SOC LIMITED**

I, the undersigned

LIVHUWANI TOMMY MAKHODE

Do hereby make oath and say that:

Introduction

1. I joined Transnet on 1 November 2018. I am currently the Executive Manager for Corporate and Public Affairs and report to Mr Molatwane Likhetho, the General Manager for Corporate and Public Affairs. I therefore have oversight of the marketing, communication and media budgets for the Transnet Group.
2. I have been requested by the Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector ("the Commission"), to confirm the Marketing and Advertising Budget for Transnet SOC Limited ("Transnet") during the 2010 and 2011 financial year periods.
3. The 2010 Marketing and Advertising Budget for Transnet amounted to **R27 005 399.00**, a breakdown of which is shown below.

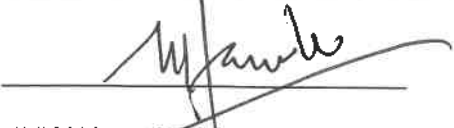
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L.T.

Operating Division	Marketing and Advertising Budget R'
Transnet Group Corporate and Public Affairs (CPA)	10 000 000.00
Transnet Freight Rail (TFR)	8 302 617.00
Transnet Pipelines (TPL)	3 040 586.00
Transnet National Ports Authority (TNPA)	5 400 000.00
Transnet Port Terminals (TPT)	38 000.00
Transnet Engineering (TE)	224 196.00
TOTAL	27 005 399.00

4. The 2011 Marketing and Advertising Budget for Transnet amounted to **R95 530 394.32**, a breakdown of which is shown below.

Operating Division	Marketing and Advertising Budget R'
Transnet Group Corporate and Public Affairs (CPA)	62 000 000.00
Transnet Freight Rail (TFR)	24 744 277.00
Transnet Pipelines (TPL)	4 525 142.00
Transnet National Ports Authority (TNPA)	3 736 779.32
Transnet Port Terminals (TPT)	300 000.00
Transnet Engineering (TE)	224 196.00
	95 530 394.32


 LIVHUWANI TOMMY MAKHODE

22 January 2020

Signed before me at MIDRAND SAPS on this 22nd day of January 2020.

The deponent has acknowledged that he understands the content of the Affidavit.

He has no objection against taking the prescribed oath and considers the oath to be binding on his conscience.

[Handwritten Signature]
5-1-2020

Commissioner of Oaths



ml
L.T.

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All Share	31 523.33	▼ 0.93	31 523.33	R154	5.42	▲ 0.37	R/Z	6.727	▲ 0.34	Gold PM Fix	1 537.25	▼ 0.47	Dow Jones	12 044.28	▼ 0.22
Top 40	28 186.66	▼ 1.06	28 186.66	R157	7.39	▲ 0.27	R/E	11.005	▲ 0.10	Gold NY	1 535.31	▼ 0.67	S&P 500	1 284.44	▼ 0.27
Food 30	30 685.02	▼ 1.02	30 685.02	3-mth NCD spot	5.58	▲ 1.24	R/C	9.801	▲ 0.48	Brent Future	117.83	▲ 0.90	FTSE 100	5 808.59	▼ 0.95
Resources 20	52 715.71	▲ 1.68	52 715.71	R/Z (6-mth)	6.80	▲ 0.98	S/C	1.458	▲ 0.72	Platinum PM Fix	1 838.00	▼ 0.33	Nikkei 225	9 489.86	▲ 0.07
Goldex	2 393.63	▼ 3.19	2 393.63	R/Z (12-mth)	7.054	▲ 0.94	R/S	79.857	▲ 0.01	Palladium Spot	803.50	▲ 0.09	Xetra Dax	7 080.23	▼ 0.61

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Flooding halts output at Goliath's Sub Niger mine
NEWLY formed Goliath Gold will suspend operations at its Sub Niger mine because of flooding resulting from the cessation of pumping at the nearby Grootvlei mine. The Grootvlei mine, once owned by Panoro Gold, is up for sale after liquidators terminated a management contract for the mine awarded to preferential bidder Aurora Empowerment Systems. Page 11

Metorex to sell Zambian plant
METOREX yesterday said it had agreed to sell its Sable operation in Zambia to Glencore for R190m as one of the key conditions of the purchase of Metorex by Brazilian miner Vale. Page 11

Sanlam explores India, Africa
SANLAM is pursuing new deals that will be financed from its cash pile of R3bn, its CEO said yesterday. He said they would announce "positive developments in the next month or so". Page 12

Tanzania plans 'super-profit' tax
TANZANIA, which vies with Mali to be Africa's third-biggest gold producer, may introduce a "super-profit" tax on minerals similar to one implemented in Australia. Page 12

SA commerce revolution 'close'
ONLINE retailer KalahariNet said this week SA was on the brink of a mobile-commerce revolution, given the growing numbers of people using cellphones to access the internet. Page 13

Essar's deal 'almost wrapped up'
INDIAN conglomerate Essar said yesterday it expected to wrap up a \$750m investment in Zimbabwe's Zisco "within two to three weeks", with first production in 12 to 15 months. Page 14

High fuel prices hurt McDonald's
FAST-food franchise McDonald's reported a lower than expected sales increase at established stores in the US last month as high petrol prices and unemployment crimped its business. Page 15

Business confidence dips again
BUSINESS confidence dipped for the second month in a row, signalling a possible downturn in sentiment, the South African Chamber of Commerce said yesterday. Page 2

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Chabane accused of poor results
MINISTER in the Presidency for performance, evaluation and monitoring Collins Chabane was yesterday criticised by opposition MPs, who said his department had achieved nothing. Page 3

Youth leader could be kingmaker
THE African National Congress's influential Eastern Cape youth league chairman Ayanda Mntshini could be positioning himself as kingmaker in the battle for control of the league. Page 3

Attacks on sheep cost farmers
EASTERN Cape sheep farmers are enraged over attacks of marauding dogs which they say are attacking and eating their sheep stock, costing them millions of rands. Page 4

Divided Opec's talks break down
OPEC talks broke down yesterday without an agreement to raise output after Saudi Arabia failed to convince the cartel to lift production, causing crude prices to shoot higher. Page 5

Plan to criminalise sports graft
AUSTRALIA's best-known sports codes are lacking a government push to make sports corruption a crime with penalties of up to 10 years in prison. Page 10

'Equal pressure' at Super derby
BULLS captain Victor Matfield believes the pressure will be split evenly between his side and the Stormers in Saturday's decisive Super Rugby clash at Newlands. Back Page

Trust in SA banks slides on poor service, high costs

SURE KAMHUNGA
Financial Services Editor

NEARLY half of South Africans no longer trust their banks and poor service tops the list of their complaints, according to a global survey conducted by Ernst & Young and released yesterday.

The survey's results will probably please the government, which wants to persuade banks that mistrust customers with bad service or high fees.

The government believes regulatory oversight of the market conduct of the financial sector should be tightened in the aftermath of the global financial crisis.

Presenting the findings, the associate director for advisory services at Ernst & Young, Colin Daley, said service quality had become the biggest cause of customer defection to rival banks in SA.

This contrasted with developed markets, where customer trust plummeted mainly due to the economic upheaval experienced because of the financial sector's reckless trading.

Among customers surveyed in SA, 46% cited service quality as the main reason they would change banks. Almost half of customers polled said they were not satisfied with their bank's service, and 47% said they had lost trust in their banks in the past year.

"Poor service quality and price are the main factors. And price," (At least 59% of customers who

decided to change their main bank cited general levels of service quality, while 57% cited price."

Ernst & Young did not name the banks which customers said provided poor service.

The Treasury wants the financial sector to improve standards under its new policy, called Treating Customers Fairly.

Mr Daley said banks that differentiated themselves by providing good service and relevant products would gain market share. He said banks had to reinforce brand loyalty, provide appropriate and profitable services, and rebuild trust.

The report found that the effect of the financial crisis on banks was still being felt globally, and trust had been affected. "Given that it is much easier to change a brand than to re-earn it, it is essential for banks to execute brand enhancement programmes," the report read.

kamhunga@edyn.co.za

JSE falls as Bernanke signals end of easing programme

RON DERBY
and **ALISTAIR ANDERSON**

SOUTH African shares fell to their lowest since the end of last month after the US Federal Reserve gave no indication of a new round of stimulus measures—sending metal prices diving yesterday.

Concerns about statements made by US central bank chairman Ben Bernanke drove markets weaker, Doug Black, head of equity trading at Investec Asset Management, said.

Mr Bernanke gave no indication of plans for a third round of asset purchases known as quantitative easing. The second round ends this month.

Concerns that deteriorating global growth would reduce demand pushed metal prices lower. Copper dropped as much as 2.4%. Gold was weaker for a second day, falling 0.8% while silver slumped 3%. Platinum dropped 1.2%.

The JSE all share index shed 0.9% to its lowest since May 23. The index has now fallen 4.8% from its record high reached on February 14.

Brait economist Colin Garrow said the global economy's recovery was still being led by the US. "Africa can only do as well as the global economy lets it. Nothing new is putting us along."

Anglo America fell 1.4% yesterday and BHP Billiton shed 2.3% to its lowest since March 16. Copper is a significant chunk of both companies' earnings.

AngloGold Ashanti was down 3.1% on the fall in bullion. Harmony dropped for the third successive day, down 4.8%—to its lowest price since March 25.

Also weighing on mining shares was a demand from the National Union of Mineworkers for a 14% increase for members at coal and gold companies, and Impala Platinum. *Wendy Eisenberg*

Chairmen of Transnet, Eskom and Denel to go

Minister persuades Cabinet in bid to gain greater oversight

PETER BRUCE

THE chairmen of three of SA's most powerful state-owned companies — Transnet, Eskom and Denel — are to be removed soon in a dramatic show of force by Public Enterprises Minister Malusi Gigaba, as the government tries to tighten its grip on the "commanding heights" of the economy.

The changes were discussed and approved at a Cabinet meeting in Cape Town yesterday.

Business Day reliably understands that Transnet chairman Mafika Mwanaziti — who was appointed only late last year and who also briefly acted as the company's CEO — will be invited to resign to the board of Eskom as an ordinary member.

Eskom chairman Mpho Makwana, it is understood, will not be offered another position.

He has served on the Eskom board since 2002 and became chairman last year after a row in which both then-chairman Bobby Godsell and CEO Jacob Mareeng left the company.

It is further understood that Mr Gigaba intends to replace virtually the entire Eskom board, with the exception of Dr Bertie Fatouff and one other member.

The proposed new Eskom chairman is little known in SA. He is Zola Tsoa, chairman of the Lesotho Electricity Authority.

At Denel, Mr Gigaba intends to install Zoli Kunene as chairman, replacing Sibiso Sibisi, who is also president of the Council for Scientific and Industrial Research. In all, about nine of the 14 Denel directors are expected to be replaced.

Neither Mr Gigaba, nor his spokesman, Makhoisi Nkosi, were commenting on the changes yesterday.

While Mr Gigaba, still relatively new in his position, is not seeking actively to control the state-owned enterprises, he wants much tighter shareholder oversight as the government tries to develop



Defiered soldiers sit at a Ratel armoured personnel carrier on a street in Sana'a, Yemen, chewing qat, a mild stimulant. Earlier this week, the DA wants to know how the South African vehicles reached the strife-torn country. Picture: REUTERS

SA Ratels turn up in Yemen conflict

Call for arms control committee inquiry

WYNDHAM HARTLEY
Parliamentary Editor

CAPE TOWN — South African-manufactured Ratel armoured infantry carriers have been photographed in strife-torn Yemen, leading the Democratic Alliance (DA) to call for an investigation by the National Conventional Arms Control Committee (NCACC).

The Ratels were apparently being operated in the Yemeni capital, Sana'a, by soldiers who had defected to protesters demanding the end of President Ali Abdullah Saleh's rule.

The presence of the vehicles either means SA authorised their export or that another country sold Ratels to Yemen, which would constitute a violation of the end-user certificate.

South African law forbids the export of arms to violent countries involved in regional conflicts and those subject to a United Nations embargo. Details of arms exports are a closely guarded secret, overseen by the committee, which reports to Parliament.

DA defence spokesman David Maynier said in a statement yesterday that NCACC chairman Jeff Radebe should launch an investigation into how the converted Ratels, previously operated by the South African National Defence Force, had found their way to Yemen.

"Over 100 pictures of demonstrators in Yemen were recently published by Reuters and the Associated Press. The series includes a number of pictures of a converted Ratel infantry vehicle in Yemen," Mr Maynier said.

"The NCACC's latest annual report records that R273.5m worth of conventional arms were sold to Yemen in 2010. Conventional arms exports to Yemen last year included R239.4m worth of Category A conventional weapons, which are described as major conventional implements of war that could cause heavy personal casualties."

Mr Maynier was ejected from the National Assembly in March

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Lagarde seeks China support for IMF job

FOREIGN STAFF
Paris

FRENCH Finance Minister Christine Lagarde met Chinese Vice-President Wang Qishan yesterday as she sought to win support for her campaign to become the International Monetary Fund's (IMF) next MD.

"I am here not to officially ask for China's backing, but I hope to introduce my bid," she said.

"China is very important for the IMF."

Ms Lagarde was visiting China as part of her campaign to take over the leadership of the IMF

after Dominique Strauss-Kahn was charged with sexual assault in New York and resigned last month. While she has gained backing from European nations for the post, developing countries including the Brics — Brazil, Russia, India, China and SA — have called for an end to the convention of a European heading the IMF.

Ms Lagarde's trip to China followed a visit to India earlier this week. She will also visit Saudi Arabia and Egypt.

Finance Minister Pravin Gordhan said this week, the Brics countries were still discussing a joint nominee for the IMF job.

Indian Finance Minister Pranab Mukherjee stuck to the Brics position after meeting Ms Lagarde on Tuesday.

"We want the selection of the MD of the IMF or that of the World Bank to be done on the basis of merit, competence and in a transparent manner," Mr Mukherjee said yesterday.

He said Mexico's central bank governor, Agustín Cárdenas, was "a competent person", and said, "We'll also talk to them. Let's see how it emerges."

China's foreign ministry said last month that the management of the IMF should be chosen on the basis of "impartiality" and "merit", and developing nations should be represented.

French judges may seek more time to decide on opening an inquiry into Ms Lagarde's role in a 2008 arbitration payout, which meant allegations of misconduct could hang over her bid to head the IMF.

Three judges will meet tomorrow to discuss whether the case brought against her by opposition party deputies merits a formal probe, and a judicial source said they would probably seek extra

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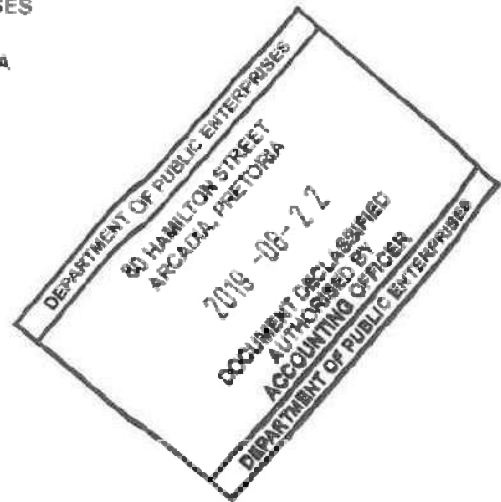


MINISTRY: PUBLIC ENTERPRISES

REPUBLIC OF SOUTH AFRICA

Private Bag X15, Hatfield, Pretoria, 0028

CABINET MEMORANDUM NO : 4 of 2011
 DATE : 25 May 2011
 FILE NUMBER : 2/2/1

**1 SUBJECT**


The appointment of four (4) Non-Executive Directors to the Transnet Limited ("Transnet") Board of Directors ("Transnet Board")

2 PURPOSE

- 2.1 To obtain Cabinet's approval for the appointment of four (4) new Non-Executive Directors to the Transnet Board.
- 2.2 Further, for Cabinet to concur with the appointment of Mr Iqbal Sharma as Chairperson and Non-Executive Director of the Transnet Board.

3 SUMMARY

- 3.1 Transnet's Articles of Association provide for a maximum of eighteen (18) Directors. There are currently sixteen (16) Directors on the Transnet Board, of which fourteen (14) are Non-Executive Directors and two (2) are Executive Directors, namely, Mr Brian Molefe (Chief Executive Officer) and Mr Anoj Singh (Acting Chief Financial Officer), who are *ex officio* members of the Transnet Board. Accordingly, there are two (2) vacant Non-Executive Directors positions on the Transnet Board. It is recommended that two (2)

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nominees be considered for appointment as Non-Executive Directors to fill these two (2) vacant positions on the Transnet Board.

- 3.2 In addition, it is recommended that two (2) Non-Executive Directors of the Transnet Board not be re-appointed at the Annual General Meeting of Transnet to be held on 24 June 2011 ("AGM"). In their place, two (2) nominees are recommended to be considered for appointment to the Transnet Board as Non-Executive Directors. Furthermore, it is recommended that Mr Iqbal Sharma, a current member of the Transnet Board, be appointed as the Chairperson and Non-Executive Director of the Transnet Board to replace Mr Mafika Mkwanazi, the current Chairperson of the Transnet Board.

4 STRATEGIC FOCUS OF THE MEMORANDUM

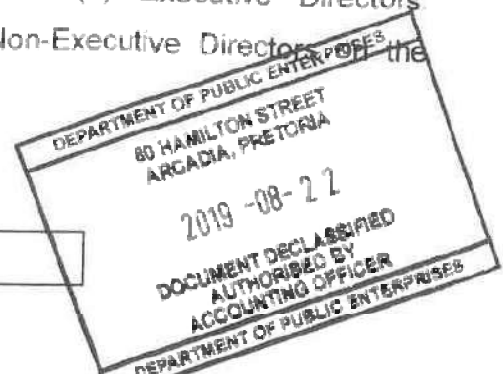
Transnet is a critical and strategic state owned enterprise which requires a complement of board directors with the requisite competencies (skills, experience, expertise and knowledge) and qualifications to enable the company to effectively deliver on its mandate. In light of the extensive capital expansion programme currently underway at Transnet and operational challenges facing the business, it is crucial that the Transnet Board is at its full strength.

5 DISCUSSION

- 5.1 Transnet's Articles of Association provide for a maximum of eighteen (18) directors on the Transnet Board. The selection of the board of directors is the responsibility of the Shareholder at the AGM. Therefore, the vacancies on the Transnet Board provide the Shareholding Minister with an opportunity to appoint individuals with the skills and attributes that suit Transnet's requirements.
- 5.2 The current Transnet Board (attached hereto as **Annexure A**) consists of sixteen (16) board members including two (2) Executive Directors. Accordingly, there are vacancies for two Non-Executive Directors on the Transnet Board.

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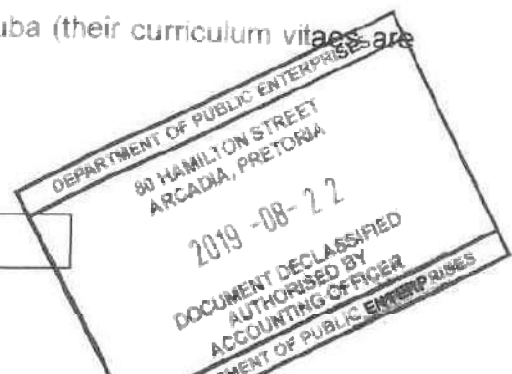
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- 5.3 In light of the current vacancies on the Transnet Board, the Department of Public Enterprises ("Department") conducted a skills gap analysis and identified some gaps on the Transnet Board. To address the skills gap, the Department recommends that the Transnet Board must be strengthened in the areas of Information and Communications Technology (ICT) and Rail.
- 5.4 Consequently, Mr Nishi Choubey and Ms Yasmin Forbes, have been identified as having the appropriate skills and experience in the areas mentioned above and are proposed for appointment as new Non-Executive Directors to the Transnet Board. Mr Nishi Choubey is Managing Director – Projects, Hind Terminals Pvt. Ltd. This appointment will bring a wealth of rail, warehousing and multi-modal logistics skills to the Transnet Board. Ms Yasmin Forbes is a National Sales Manager - CMUT, Oracle SA and her skills are Information and Communications Technology (ICT) sales, business development and brand creation and sustainability
- 5.5 The Department believes that the profiles of the two (2) candidates address the skills gap that currently exists on the Transnet Board, and their appointment will strengthen Transnet Board's capacity in fulfilling Transnet's mandate and implementing the company's business strategy. Their curriculum vitae are attached hereto as **Annexure B**.
- 5.6 The current Non-Executive Directors of Transnet were appointed for a three year term, subject to annual confirmation by the Minister of Public Enterprises. The Department has determined that Mr Mafika Mkwanazi and Mr Don Mkhwanazi should retire at the AGM and recommends that these directors should not be re-appointed. The changes to the Transnet Board will reinforce the Transnet Board's capacity to deal with the challenges currently facing the business
- 5.7 It is proposed that Mr Mafika Mkwanazi and Mr Don Mkhwanazi be replaced by Mr Almir De Sousa and Ms Maphefo Mohuba (their curriculum vitae are attached as **Annexure B**)

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5.8 Mr Almir De Sousa is a Project Lawyer at Aurecon Angola/ Mozambique. His skills are legal, international trade, public private partnership and project finance. Ms Mohuba is the owner and Managing Director of Moreteng Investments with strong business, operational and executive experience.

5.9 It is also proposed that Mr Iqbal Sharma, a current Non-Executive Director of the Transnet Board, replaces Mr Mafika Mkwana as the Chairperson of the Transnet Board. Mr Iqbal Sharma worked as a Deputy Director-General for the Department of Trade and Industry and brings a wealth of leadership skills and exceptional executive experience in the trade and investment field to the Transnet Board.

5.10 With these appointments, the Transnet Board will consist of a full complement of eighteen (18) Directors comprising of sixteen (16) Non-Executive Directors and two (2) Executive Directors.

5.11 The demographics for the new Transnet Board will comprise of twelve (12) males (61%) and seven (7) females (39%). Apart from the proposed rail specialist, Mr Nishi Choubey, who is an international candidate, eleven (11) Africans, one (1) White, five (4) Indians and one (1) Coloured. The proposed new Transnet Board is attached hereto as **Annexure C**.

6 IMPLEMENTATION PLAN

Following Cabinet's approval, the Minister of Public Enterprises will appoint the new Non-Executive Directors to the Transnet Board for a term of three (3) years, subject to annual review at Transnet's Annual General Meeting.

7 ORGANISATIONAL AND PERSONNEL IMPLICATIONS

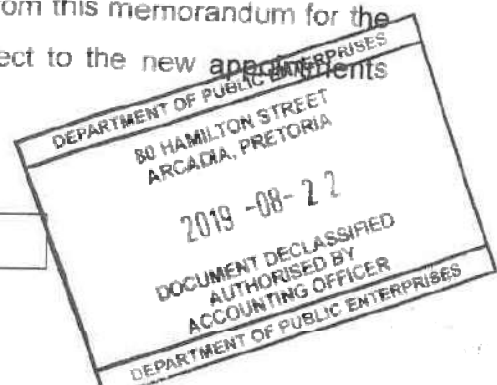
None

8 FINANCIAL IMPLICATIONS

There are no financial implications emanating from this memorandum for the Department. The financial obligation with respect to the new appointments will be borne by Transnet.

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9 COMMUNICATION IMPLICATIONS

Subsequent to obtaining Cabinet's approval for the appointment of the four (4) nominees, the Minister of Public Enterprises will communicate the appointment of the new Directors to the Transnet Board.

10 CONSTITUTIONAL IMPLICATIONS

None

11 IMPLICATIONS FOR VULNERABLE GROUPS

None

12 SECURITY IMPLICATIONS

None

13 DEPARTMENTS AND PARTIES CONSULTED, RESPONSES AND COMMENTS

13.1 Department of Public Enterprises.

13.2 The memorandum was not finalised in consultation with the Directors-General Cluster.

14 RECOMMENDATIONS

It is recommended that Cabinet:

14.1 approves the appointment of Ms Yasmin Forbes, Mr Nishi Choubey, Mr Almir De Sousa and Ms Maphefo Mohuba as Non-Executive Directors of the Transnet Board for a term of three (3) years, subject to annual review by the Minister of Public Enterprises

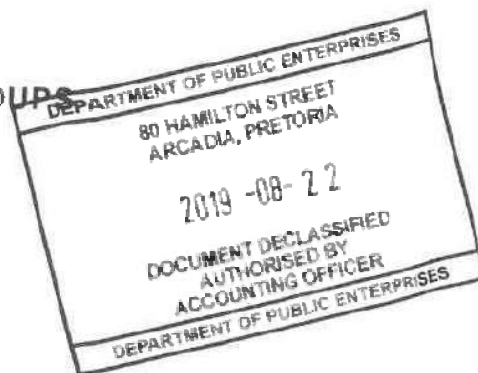
14.2 concurs with the appointment of Mr Iqbal Sharma as the Chairperson and Non-Executive Director of the Transnet Board for a term of three (3) years, subject to annual review by the Minister of Public Enterprises.

15 OFFICIAL RESPONSIBLE FOR THE MEMORANDUM

I declare that the memorandum adheres to the guidelines provided by the Cabinet for drafting of memoranda.

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Name: Ms Raisibe Lepule
Designation: Acting Deputy Director General
Telephone: 011 431 1099
Cellular: 082 885 7109

16 HEAD OF DEPARTMENT

Name: Mr Tshediso Matona
Designation: Director General
Telephone: 011 431 1173

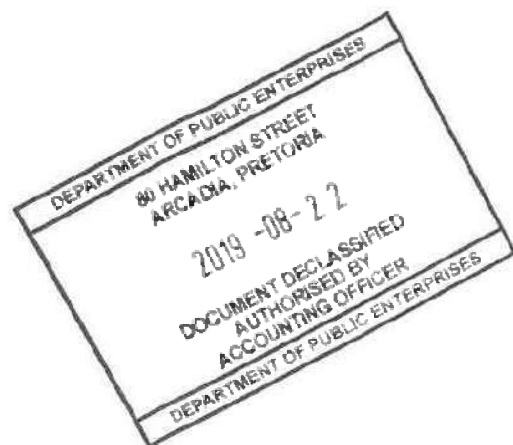
17 AUTHORISATION FOR PROCESSING THE MEMORANDUM



MALUSI GIGABA MP
MINISTER

25 May 2011

Is there a need for an electronic presentation to be done in addition to the memorandum? No



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