



2nd Floor, Hillside House
17 Empire Road
Parktown
Johannesburg
2193
Tel: (010) 214-0651
Email:

inquiries@sastatecapture.org.za

Website:

www.sastatecapture.org.za

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

**CHAIRPERSON'S DIRECTIVE IN TERMS OF REGULATION 10(6) OF THE
REGULATIONS OF THE COMMISSION**

TO : **MS LYNETTE BROWN**

ADDRESS : **82 Sixth Avenue
Rondebosch East
7780**

TEL : **084 300 0850**

EMAIL : **lynne.brown5@me.co.za**

By virtue of the powers vested in me in my capacity as Chairperson of the abovementioned Commission by Regulation 10(6)* of the Regulations of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State, I hereby direct you, **Ms Lynette Brown**, to:

* Regulation 10(6) of the Regulations of the Commission reads: "For the purposes of conducting an investigation the Chairperson may direct any person to submit an affidavit or affirmed declaration or to appear before the Commission to give evidence or to produce any document in his or her possession or under his or her control which has a bearing on the matter being investigated, and may examine such person."

1. Deliver by **04 January 2021** to the Secretary or Acting Secretary of the Commission at the address given above an affidavit or affirmed declaration in which:

1.1 you specifically address your involvement in the following:

1.1.1 allegations relating to the selection of the **Transnet Board** in 2014, *inter alia*:

- (a) the process in selecting the Board in December 2014 to include a number of individuals linked to the Gupta family and their associates, such as Linda Mabaso, Stanley Shane, and Mokgokare Richard Seleke;
- (b) that proper due diligence was not done on the individual Board members;
- (c) the selection of Board members that did not appear to be suitably qualified to fulfil the requirements from a skills, integrity, experience and transformational perspective;
- (d) as more information surfaced about the involvement of Board members with the Gupta family, your inaction to hold them accountable.

1.1.2 allegations that your announcement on 17 April 2015 that **Mr Brian Molefe** had been seconded from Transnet to Eskom as Acting Chief Executive was the first time that the Transnet Board had heard of the secondment;

1.1.3 findings in the **Fundudzi Report** into various allegations at the Department of Public Enterprises that, *inter alia*:

- (a) your personal assistant, Ms Kim Davids (“Ms Davids”) corresponded with Mr Salim Essa and Mr Ashu Chawla about board appointments and influenced your decisions in board appointments;
- (b) your involvement with assisting Ms Michelle McMaster (“Ms McMaster”), the mother of your assistant, Ms Davids in the acquisition of land, owned by Transnet Property division, in Swellendam during your tenure as Minister of Public Enterprises;
- (c) your attention is drawn in particular to sections 14.5, 14.14 to 14.20, 17 and 18.1 of the Fundudzi Report.

1.1.4 allegations that the settlement agreement that was given to **Ms Davids** after you asked her to resign, in the wake of allegations that she had stayed at the Oberoi Hotel in Dubai in 2015 on the Gupta’s account, was irregular and should be declared invalid and that it was only produced to avoid litigation;

1.1.5 the details of **international trips** that coincided with trips by members of the Gupta family and their associates, *inter alia*:

- (a) a return trip to Dubai, UAE between 25 February and 2 March 2015. The following individuals were in Dubai during the same period: Akash Garg, Rajesh Naithani, Ashok Narayan,

Ryan Bruce Austin, Sanjay Grover, Shamim Shaik, Mohammed Rafique Bagus, Rajesh Kumar Gupta, Riaz Saloojee, Abraham Stephanus Burger, Michael Andrew Thomas Hulley, Salim Aziz Essa, Hamza Farooqui, Stefan Nell, Anoj Singh and Kim Valerie Davids;

- (b) a return trip to Dubai, UAE between 6 and 11 November 2015.

The following individuals were in Dubai during the same period: Hamza Farooqui, Soo Young Jeon, Ashok Narayan, Varun Gupta, Dithoriso Victor Xaba, Arti Gupta, Duduzane Zuma, Rajesh Kumar Gupta, Surya Kant Singhala, Salim Aziz Essa, Jabulane Albert Mabuza, Kim Valerie Davids, David Clive Hirschowitz, Thavapragasen Govender, Lugisani Daniel Mantsha, Zwelakhe Nhlanganiso Ntshepe, and Shamim Shaik; and

- (c) a return trip to Dubai, UAE between 19 and 23 February 2017.

The following individuals were in Dubai and Abu Dhabi during the same period: Taufique Shaukat Hasware, Surya Kant Singhala, Yusuf Mahomed, Soo Young Jeon, Kamal Kant Singhala, Edward Muziwoxolo Zuma, Ashok Narayan, Hamza Farooqui, Pieter Johannes Van Der Merwe, Mogokare Richard Seleke, Kim Valerie Davids, Lugisani Daniel Mantsha, Salim Aziz Essa, Stefan Nell, Paul Sean O'Flaherty, Timothy Neil Jacobs, Eric Anthony Wood, Faheema Badat, Phumzile Zuma, and Shanice Talia Zuma.

2. If you would like assistance from the Commission in order to prepare the affidavit or affirmed declaration, you must, within five days (excluding weekends and public holidays) of receipt of this directive, contact, or, communicate with, the Secretary or Acting Secretary of the Commission and indicate that you would like such assistance in which case the Commission will provide someone to assist you with the preparation of the affidavit or affirmed declaration. In such a case you will not pay anything for such assistance. In this regard, please contact Mr Clarence Benjamin (clarenceb@commissionsc.org.za).
3. If, in order to prepare the affidavit or affirmed declaration, you do not need any assistance from the Commission, you must, with or without the assistance of a lawyer of your own choice, prepare the affidavit or affirmed declaration and have it delivered to the Secretary or Acting Secretary of the Commission on or before the date given above for the delivery of the affidavit. If you make use of a lawyer of your own choice to assist you to prepare such affidavit or affirmed declaration, the Commission will not be responsible for the payment of your lawyer's fees or costs.
4. This directive is issued for the purpose of pursuing the investigation of the Commission.
5. Your attention is drawn to Regulations 8(2), 11(3)(a) and (b) and 12(2)(c), (d) and (e) of the Regulations of the Commission, as amended. Regulation 8(2) reads:

“8 (1) ...

(2) A self-incriminating answer or a statement given by a witness before the Commission shall not be admissible as evidence against that person in any criminal proceedings brought against that person instituted in any court, except in criminal proceedings where the person concerned is charged with an offence in terms of section 6 of the Commissions Act, 1947 (Act No. 8 of 1947).”

Regulation 11(3)(a) and (b) reads:

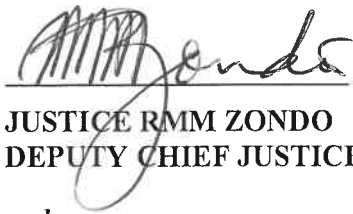
- “11 (1) . . .
- (2) . . .
- (3) No person shall without the written permission of the Chairperson—
- (a) disseminate any document submitted to the Commission by any person in connection with the inquiry or publish the contents or any portion of the contents of such document; or
 - (b) peruse any document, including any statement, which is destined to be submitted to the Chairperson or intercept such document while it is being taken or forwarded to the Chairperson.”

Regulation 12(2)(c), (d) and (e) reads:

- “12 (1) . . .
- (2) Any person who
- (a) . . .
 - (b) . . .
 - (c) . . . wilfully hinders, resists or obstructs the Chairperson or any officer in the exercise of any power contemplated in regulation 10(1) or (2);
 - (d) refuses or fails, without sufficient cause, to submit, within a period fixed by the Chairperson or at all, an affidavit or affirmed declaration pursuant to a directive issued by the Chairperson under regulation 10(6); or
 - (e) contravenes a provision of regulation 11, is guilty of an offence and liable on conviction -
 - (i) in the case of an offence referred to in paragraph (a), (c), (d) or (e), to a fine, or to imprisonment for a period not exceeding 12 months; or

- (ii) in the case of an offence referred to in paragraph (b), to a fine, or to imprisonment for a period not exceeding six months.”

SIGNED IN JOHANNESBURG ON THIS 30th DAY OF NOVEMBER 2020.



A handwritten signature in black ink, appearing to read 'RMM Zondo', is written over a horizontal line.

JUSTICE RMM ZONDO
DEPUTY CHIEF JUSTICE OF THE REPUBLIC OF SOUTH AFRICA

and

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