
AFFIDAVIT

(IN TERMS OF SECTION 27 OF THE NATIONAL PROSECUTING AUTHORITY ACT 32 OF 1998)

I, the undersigned,

Hendrik Roedolf Heyneke

ID: [REDACTED]

do hereby make oath and state:

1. I am duly authorised to depose to this affidavit in my capacity as a Portfolio Manager at the Organisation Undoing Tax Abuse (OUTA).
2. The contents of this affidavit came to my knowledge within the normal course of business.
3. I am an adult male employed as a Portfolio Manager: State Capture, by the Organisation Undoing Tax Abuse ("OUTA") with business address 318 Oak Street, O'Keeffe & Swartz Building, 10th Floor, Ferndale, Randburg, Gauteng.
4. In my capacity as Portfolio Manager, I have in my possession and under my control records, accounts and other documents relevant to the subject matter.
5. By virtue of the foregoing, the facts and allegations deposed by me fall within my personal knowledge and are to the best of my belief both true and correct, save where otherwise stated or where it so appears from the context. Where I make legal submissions, I do so on legal advice.

MANDATE & INTRODUCTION

6. OUTA is a proudly South African non-profit civil action organisation, supported and publicly funded by people who are passionate about improving the prosperity of our nation. OUTA was established to reintroduce accountability to government and to challenge the abuse of authority with regards to taxpayers' money in South Africa.

7. OUTA is a non-profit company incorporated under the Companies Act 2008 with non-profit company registration number: 2012/064213/08, and with its head office situated at 318 Oak Avenue, Randburg, Gauteng, South Africa.

THE PARTIES

8. The persons and entities, as mentioned below, are implicated in various illegal, irregular and suspicious acts, transactions and agreements.
 - 8.1 Brian Molefe ("Brian Molefe"), an adult male with identity number [REDACTED]. He is a former business executive at several state-owned enterprises in South Africa, including being the GCE of Transnet from March 2011 until April 2015 when he was appointed as the CEO of Eskom. He was also, briefly, a member of Parliament. His last known residential address is [REDACTED].

 - 8.2 Anoj Singh ("Singh"), an adult male with identity number [REDACTED]. He is the former CFO of Transnet from August 2012 until he was appointed the CFO of Eskom in 2015. His last known residential address is [REDACTED].

 - 8.3 Siyabonga Innocent Gama ("Gama"), an adult male with identity number [REDACTED]. He is the former CEO of Transnet Freight Rail ("TFR") and GCE of Transnet from April 2016 until 21 October 2018 when his service was terminated by the Transnet Board. His last known residential address is [REDACTED].

- 8.4 Phetolo Ramosebudi ("Ramosebudi"), an adult male with identity number [REDACTED]. He is the former Treasurer for Transnet. His last known residential address is believed to be [REDACTED].
- 8.5 Garry Jason Pita ("Pita"), a major male with identity number [REDACTED]. He is the former General Manager: Supply Chain Management and former GCFO of Transnet. His last known residential address is unknown. Pita resigned from Transnet on 9 April 2018.
- 8.6 Eric Anthony Wood ("Wood"), an adult male with identification number [REDACTED]. He is a South African businessman and director and former director of several companies, specifically a former director of Regiments Capital (Pty) Ltd. His last known residential address is [REDACTED].
- 8.7 Salim Aziz Essa ("Essa"), an adult male with identification number [REDACTED]. He is a South African businessman, currently residing in Dubai, UAE. He is the sole director of several companies which were implicated in State Capture reports and publications.
- 8.8 Kubentheran Moodley ("Moodley"), an adult male with identity number [REDACTED]. He is a South African businessman and director of several companies, in particular Albatime (Pty) Ltd and a former director of Mediosa Health (Pty) Ltd that was previously registered as Dinovert (Pty) Ltd. His last known residential address is [REDACTED]. Alternatively, he resides at [REDACTED].
- 8.9 Magandheran (Niven) Pillay ("Pillay"), an adult businessman with identity number [REDACTED]. He is a South African businessman and director of several companies, in particular Regiments Capital (Pty) Ltd and Regiments Securities Ltd. His last known residential address is [REDACTED].



- 8.10 Litha Mveliso Nyhonyha ("Nyhonyha"), an adult businessman with identity number [REDACTED]. He is the director of several companies, in particular Regiments Capital (Pty) Ltd and Regiments Securities Ltd. His last known residential address is [REDACTED].
- 8.11 Atul Kumar Gupta ("Atul Gupta"), an adult businessman with a South African identity number [REDACTED]. He is the director of several companies, in particular he was a director and shareholder of Sahara Computers (Pty) Ltd from 1997 until 7 July 2016 when he resigned. His last known South African residential address is [REDACTED]. His current residential address is [REDACTED].
- 8.12 Chetali Gupta ("Chetali Gupta"), an adult female with a South African identity number [REDACTED]. She is the director of several companies, in particular she was a director and shareholder of Sahara Computers (Pty)Ltd from 1997 until 7 July 2016 when she resigned. Her last known South African residential address is [REDACTED]. Her current residential address is [REDACTED].
- 8.13 Stanley David Shane ("Shane"), an adult male with identity number [REDACTED]. He is a businessman and director of several companies. He is a former Transnet non-executive director and served as the chairperson of the Acquisitions and Disposals Committee of the Transnet Board. His last known residential address is [REDACTED].
- 8.14 Linda Carol Mabaso ("Mabaso"), an adult female with identity number [REDACTED]. She is a former non-executive director and Chairperson of the Transnet Board. She also served as a member on the Acquisitions and Disposals Committee of the Transnet Board. Her last known residential address is [REDACTED].
- 8.15 Mogokare Richard Seleke ("Seleke"), an adult male with identity number [REDACTED]. He is a former Director-General of the Department of Public Enterprises. He also served as a non-executive director on the Transnet Board and was a member of the Acquisitions and Disposals Committee of the

- Transnet Board. His last known residential address is [REDACTED]
[REDACTED]
- 8.16 Zainul Abedeen Nagdee ("Nagdee"), an adult male with identity number [REDACTED]. He is a former non-executive director of Transnet and served as a member on the Acquisitions and Disposals Committee of the Transnet Board. His last known residential address is [REDACTED]
[REDACTED].
- 8.17 Wasim Essop ("Essop"), an adult male with identity number [REDACTED]. He is a director of several companies, in particular Hastauf (Pty) Ltd and Forsure Consultants (Pty) Ltd. His last known residential address is [REDACTED]
[REDACTED].
- 8.18 Tafique Shaukat Hasware ("Hasware"), an adult male with identity number [REDACTED]. He is a director of several companies and in particular a former director of Hastauf (Pty) Ltd and Forsure Consultants (Pty) Ltd. His last known residential address is [REDACTED].
- 8.19 Werner Fuls ("Fuls"), an adult businessman with identity number [REDACTED]. He is a director of several companies and in particular a director of IPocket Global (Pty) Ltd. His last known residential address is [REDACTED]
[REDACTED].
- 8.20 Bernardus (Bernie) van Zijl ("Van Zijl"), an adult businessman with identity number [REDACTED]. He is a director of several companies and in particular a director of IPocket Global (Pty) Ltd. His last known residential address is [REDACTED].
- 8.21 Fairchild Phiri ("Phiri"), an adult male with identity number [REDACTED]. He is a director of several companies and in particular Hip Hop Dance Championship NPO and Mod Urban Connexion (Pty) Ltd. His last known residential address is [REDACTED]
[REDACTED].

- 8.22 Regiments Capital (Pty) Ltd ("Regiments") is a South African registered company with registration number 2004/023761/07 and with its registered business address [REDACTED].
- 8.23 Albatime (Pty) Ltd ("Albatime") is a South African registered company with registration number 2009/021474/07. The registered address is [REDACTED].
- 8.24 Sahara Computers (Pty) Ltd ("Sahara") is a South African registered company with registration number 1997/015590/07. The registered address is [REDACTED].
- 8.25 Hastauf (Pty) Ltd ("Hastauf") is a South African registered company with registration number 2014/271102/07. The registered address is [REDACTED].
- 8.26 Forsure Consultants (Pty) Ltd ("Forsure") is a South African registered company with registration number 2014/271324/07. The registered address is [REDACTED].
- 8.27 IPocket Global (Pty) Ltd ("IPocket") is a South African registered company with registration number 2015/123172/07. The registered address is [REDACTED].
[REDACTED]. The company has filed for Voluntary Liquidation on 23 August 2016.
- 8.28 Hip Hop Dance Championship NPC ("Hip Hop Dance") is a South African registered Non-Profit Company with registration number 2013/169323/08. The registered address is [REDACTED].
- 8.29 Mod Urban Connexion (Pty) Ltd ("Mod Urban") is a South African registered company with registration number 2012/051876/07. The registered address is [REDACTED].

8.30 Mediosa Health (Pty) Ltd ("Mediosa") is a South African registered company with registration number 2015/083521/07. Mediosa underwent two name changes before. From July 2015 until July 2017 it traded under the name Dinovert (Pty) Ltd ("Dinovert") and from July 2018 it traded under the Cureva (Pty) Ltd. It later changed its name again to Mediosa Health. The company was placed under business rescue in 2018 and Muhammed Asif Latib was appointed as the Business Rescue Practitioner. The company's registered address is [REDACTED]

EVIDENCE & INFORMATION OBTAINED

9. The reports, statements, certificates, documentation and information, mentioned below, were used to compile this affidavit. These documents are in electronic format and are attached via a USB memory drive to this affidavit.
- 9.1 Transnet related statements that were submitted to the Commission of Inquiry into State Capture;
- 9.2 The Companies and Intellectual Property Commission ("CIPC") database on companies and directors' information;
- 9.3 Articles written by investigative journalists and published in various media publications including Organized Crime and Corruption Project ("OCCRP"), amaBhungane Centre for Investigative Journalism ("amaBhungane"), Daily Maverick ("DM"), The Mail & Guardian ("M&G") and The Sunday Times ("ST");
- 9.4 Emails, documents and spreadsheets retrieved from the Sahara server ("Guptaleaks"). The leaked Sahara hard drive was submitted to the Commission of Inquiry into State Capture by Mr Brian Currin on 2 September 2018 and accepted as evidence at the Commission by Deputy Judge President Raymond Zondo;
- 9.5 Emails, documents and spreadsheets retrieved from various data sets submitted to the Organisation Undoing Tax Abuse;

9.6 Multiple anonymous whistle-blower reports.

BACKGROUND

10. Transnet SOC Limited ("Transnet") is a company as contemplated in Item 2 of Schedule 5 of the Companies Act, 71 of 2008 ("Companies Act"). It exists in accordance with the Legal Succession to the South African Transport Services Act, 9 of 1989 or any legislation that replaced it. Transnet is a State-Owned Entity ("SOE") by virtue of its listing as a public entity in Schedule 2 of the Public Finance Management Act, 1 of 1999, as amended ("PFMA"). Transnet is thus subject to the Companies Act and the PFMA.
11. Transnet is the custodian of South Africa's rail, ports and pipeline networks. It operates as an integrated freight company with six operating divisions, namely Transnet Freight Rail ("TFR"), Transnet National Port Authority ("TNPA"), Transnet Port Terminals ("TPT"), Transnet Rail Engineering ("TE"), Transnet Pipelines ("TPL") and Transnet Group leadership at its head office.
12. The Shareholder Representative of Transnet is the Minister of Public Enterprises and Transnet resorts under the Portfolio Committee on Public Enterprises in Parliament who exercises an oversight role over various SOE's, including Transnet.
13. In March 2011, Brian Molefe was appointed as Transnet Group Chief Executive ("GCE"), and Siyabonga Gama was reinstated as Chief Executive Officer ("CEO") of Transnet Freight Rail. Anoj Singh, who was acting Chief Financial Officer ("CFO") from 2009, became the permanent CFO of Transnet in 2012.
14. In April 2012, Transnet launched the Market Demand Strategy ("MDS") to achieve South Africa's broader socio-economic objectives which entailed creating value for Transnet through increasing the tonnage delivery, and a shift from road to rail to enhance the environmental footprint and ultimately lead to job



creation. The MDS summary document is attached hereto and marked as **Annexure "HRH 1"**.

15. The MDS was a capital investment programme of R300billion. Of that, R50billion would be directed towards the coal and iron export lines. Transnet, based on that, initiated the largest procurement project in its history, the purchase of 1064 locomotives for its General Freight Business ("GFB").
16. In July 2012, Transnet appointed the McKinsey Consortium as transaction advisors to provide it with transaction advisory services related to the acquisition of the 1064 locomotives. The McKinsey Consortium was led by McKinsey Incorporated (South Africa) and included the following entities:
 - McKinsey Incorporated (Main bidder);
 - Letsema Consulting (Co-bidder);
 - Advance Rail Technologies;
 - Nedbank Capital;
 - Edward Nathan Sonnenbergs (ENS);
 - Koikanyang Incorporated; and
 - Utho Capital
17. On 22 August 2012, Transnet raised a conflict of interest between Letsema and Barloworld and advised McKinsey to consider a replacement for Letsema. On the date of appointment of the consortium, Regiments replaced Letsema. Regiments was not part of the procurement process, and the belated inclusion of Regiments without them following a fair, transparent and competitive bidding process was in contravention of the Transnet Procurement Procedure Manual (PPM) and its Supply Chain Policy.
18. On 19 November 2013, Anoj Singh sent a letter to McKinsey regarding another conflict of interest with Nedbank Capital being part of the consortium. McKinsey acknowledged the conflict of interest and both parties recommended an alternative, Regiments Capital, to provide the required services in place of Nedbank.

19. On 16 April 2014, Vikas Sagar of McKinsey sent a letter to Anoj Singh indicating that McKinsey ceded all its rights and obligations to Regiments on 5 February 2014. Sagar further stated that there was an agreement reached with Transnet regarding this cession. All work related to and in respect of the mandate was conducted by Regiments and not by McKinsey.
20. On the same day, Anoj Singh signed off a memorandum addressed to Brian Molefe where he sought approval for the amendment of the original scope of work from McKinsey to Regiments and a change in the remuneration model. Singh also requested that the power be delegated to him (Singh) to execute the amendments as requested. Brian Molefe approved the request the next day, 17 April 2014.
21. In summary, the services that the McKinsey Consortium and subsequently Regiments were contracted to provide included capital raising, deal structuring and other advisory services.
22. On 17 March 2014, Transnet awarded a contract to four bidders for the acquisition of 1064 locomotives. The value awarded was R54,5 billion, with the contract composition as follows:

Supplier	Locomotive Type	Quantity	Contract Value (ZAR Billion)
China South Rail (CSR)	Electric	359	R 18,12
Bombardier Transport (BT)	Electric	240	R 13,05
China North Rail (CNR)	Diesel	232	R 9,95
General Electric (GE)	Diesel	233	R 8,43
Sub Total			R 49,55
Contingency @ 10%			R 4.95
Total			R 54.5

23. The financing component for the 1064 locomotive acquisition can be divided into three main categories, namely –
 - The China Development Bank loan ("CDB");
 - The CLUB LOAN; and

- The interest rate SWAPS.
24. This affidavit will detail how different individuals conspired to obtain payments in "facilitating" a loan obtained from CDB in the amount of USD1,5 billion with a standby facility of USD1 billion, through the processes they followed, the negotiations they were involved with and agreements that they signed.
25. This affidavit will also highlight how third parties who had no mandate or business with Transnet, in a fraudulent manner and through a sophisticated money laundering process, received funds they were not entitled to.

THE CDB LOAN

26. Transnet planned to finance the 1064 locomotive acquisition by raising debt, i.e. obtaining loans. At the time, Transnet had a well-established Treasury department which comprised individuals with various specialised skills such as traders, debt raisers and market analysts.
27. Ms Mathane Eveline Makgatho, the former Group Treasurer of Transnet (March 2013 – November 2014), stated at the Commission of Inquiry into State Capture that during the evaluation process of the 1064 locomotive acquisition, Transnet Treasury commenced with a funding strategy which was aligned with the Board approved strategy for the Transnet Group of companies. Ms Makgatho's statement submitted to the State Capture Commission is attached hereto and marked as **Annexure "HRH 2"**.
28. Ms Makgatho stated that the proposed funding arrangement for the Bombardier Transport ("BT") component of the 1064 was done through Export Development Canada ("EDC") and the General Electric ("GE") component, through the Export-Import Bank of the United States ("US Exim").
29. On 29 April 2014, Ms Makgatho wrote a memorandum to Messrs Brian Molefe and Anoj Singh to request approval for Transnet's Group Treasury to proceed with negotiations with the China Development Bank ("CDB") for funding of the

China South Rail ("CSR") and China North Rail ("CNR") component of the 1064 locomotive acquisition. In the memorandum, she stated that the initial quote Transnet received from CDB was significantly higher than where Transnet funds itself in the market. She requested for Transnet's Group Treasury to re-approach CDB to revise their pricing downwards and to negotiate better terms and conditions of the proposed funding. Singh recommended the request and Molefe approved it. A copy of this memorandum is attached hereto and marked as **Annexure "HRH 3"**.

30. In May 2014, the Transnet Treasury department commenced with negotiations with the CDB regarding the financing of the locomotives to be procured from the Chinese suppliers in respect of the 1064 locomotive acquisition.
31. During the post-tender negotiation ("PTN") phase of the transaction, Ms Makgatho became aware of Regiments Capital's involvement in the multi-disciplinary negotiation team. She stated that it was not clear to her what Regiments' role was supposed to be, as the Transnet Treasury team was more than competent and experienced to deal with the negotiations and transactions. She had her doubts about Regiments' experience and believed their services were not required.
32. An email dated 21 August 2014 from Ms Makgatho to Messrs Molefe and Singh detailed her discomfort with Regiments' involvement in negotiations on the CDB loan.
33. She also informed the GCE and CFO that the CDB loan in that form was not in the best interest of Transnet or the country given potential capital leakage of up to R3.7 billion in excessive interest expense and excessive arrangement fees.
34. She furthermore stated that the CDB loan as it stood could be classified as a PFMA violation.
35. In the email, Ms Makgatho stated the following:

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"I respect your Executive Authority and powers that go with it, but I also believe that it is my responsibility as the current Transnet Group Treasurer to advise you on matters relating to Treasury activities.

As I indicated, I was not consulted nor was I aware that Regiments was appointed as the Transaction advisor and lead negotiator for the facility as I believe there was no need for them to be appointed given progress that we had made.

I do not support that a R26 billion facility be negotiated and led by a transaction advisor, as we cannot and should not negotiate a loan facility in isolation of Transnet's current R90 billion debt portfolio.

When we negotiate and enter into agreement with lenders and investors, we make certain undertakings and covenants that should apply to future facilities as well. The fact that Transnet's biggest ever transaction, is negotiated and decided by outsiders (Regiments) is a cause for concern as it exposes the Company to undue risk.

When we negotiate a facility of this magnitude, we assemble a multi-disciplinary team that includes legal, tax, accounting, structured finance and risk management team members. This is to ensure that all potential risks relating to the facility are identified and mitigated to the extent possible.

It is my believe that the CDB facility in its current form is not in the best interest of the Company or the country given potential capital leakage of up to R3.7 billion in excessive interest expense and excessive arrangement fees which may be classified as PFMA violation given information at our disposal.

The additional interest expense will have a negative impact on the already fragile cash interest cover ratio. I therefore recommend that we terminate

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discussions with China Development Bank and explore other sources of funds.

Transnet has proved its ability to raise funds from diverse funding sources even under trying circumstances. In 2008-09, we were able to raise over R22 billion even when the market was "closed" for other issuers. The latest example is our ability to raise R8 billion for the locomotive deposit at short notice.

As indicated in the Company's June 14 going concern document, the Company has sufficient facilities to meet all its obligations as they fall due. The resuscitation of Transnet's domestic bond program and availability of short-term facilities will assist in alleviating any potential cash flow problems. Even if domestic spreads can widen, overall pricing will still be much better than the CDB facility."

A copy of this email is attached hereto and marked as **Annexure "HRH 4"**.

36. Confirmation of Ms Makgato's concerns can be found in an indicative term sheet dated 30 July 2014 for indicative terms for a term loan facility arranged by CDB for Transnet. The excessive interest expense and arrangement fees are noted in this negotiation document, and it did not vary much from the final loan agreement that was signed between the parties in June 2015. A copy of this term sheet is attached hereto and marked as **Annexure "HRH 5"**.
37. In terms of the term sheet, an "*arrangement fee*" of 1,18% of the amount of the total commitment under the Term Facility Agreement is noted. In a footnote on page 4 of this draft term sheet the following explanation was given regarding the arrangement fee: "*Please note that this fee is likely to be shared with other members of the syndicate as an upfront fee for their participation. CDB requires this rate of arrangement fee to provide it with flexibility during the syndication process*". An arrangement fee of 1,18% of the total loan amount is excessive measured against arrangement fees in other loan transactions Transnet entered into. In this instance, it is unknown who the "*members of the syndicate*" were.



The arrangement fee, or up-front fee as it is described in certain documents, will be discussed later in this affidavit.

38. Negotiations between Transnet and CDB came to a halt in October 2014. Later in this affidavit, it will be described how new life was blown into the negotiations.
39. In his statement to the State Capture Commission (paragraph 5.5.10), the Acting CE of Transnet Mr Mohammed Mahomed confirmed that the exclusion of Transnet officials as described by Ms Makgatho violated the Transnet Delegation of Authority Framework (clause 5.2.7) which places an obligation on Transnet business units to *"always obtain quotes on FX forward rates and liaise with the Treasury Trading desk that will verify the rates to ensure it is market related. The Business Units can only enter into the FX hedges with the supplier once the rates are accepted by the Treasury Trading desk via email. Once the above approvals are obtained the Treasury Traders will provide sign off on the rate acceptance"*.
40. Mr Mahomed also confirmed that the Transnet Treasury team had sufficient expertise to enter into loan transactions without the need for external assistance. He stated that there was no need to incur any loan arrangement fees. In an attachment to his statement on the costs for loan funding related to the 1064 locomotive programme, it is shown that the costs for the CDB loan were USD17,7 million as an upfront or arrangement fee and R166 million as an advisory fee. Both these sets of fees incurred by Transnet were to the detriment of Transnet and the South African taxpayer. The attachment to Mr Mahomed's statement that shows the costs for funding related to the 1064 locomotive acquisitions is attached hereto and marked as **Annexure "HRH 6"**.
41. Ms Makgatho stated at the State Capture Commission that on 20 August 2014 she drafted an internal memorandum to the Transnet Board to seek approval for funding initiatives subject to acceptable terms and conditions. She suggested to Anoj Singh that the internal Transnet pricing should be used to inform the Board about CDB funding costs. She later discovered that Singh replaced her memorandum to the Board with a PowerPoint presentation that was based on the flawed Regiments analysis. Anoj Singh deliberately misled the Transnet

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Board regarding the costs of the CDB loan. This was highlighted during Ms Makgato's testimony at the State Capture Commission and confirmation of her testimony can be found on page 34 (paragraph 137 – 140) of her written statement.

42. Ms Makgatho resigned as Transnet Group Treasurer effective on 30 November 2014. After her resignation, it seems that the negotiations between Transnet and CDB came to a halt because of certain issues regarding the financing terms that could not be agreed on.
43. In December 2014 former President Zuma led a South African delegation of 17 ministers and about 300 business executives on an official state visit to the People's Republic of China. Brian Molefe accompanied the former president on this state visit and in a media statement dated 4 December 2014, Transnet announced that a historic Memorandum of Understanding was signed with the Chinese locomotive manufacturer CRS, to facilitate trade between China and South Africa. The signing ceremony was attended by former President Zuma and the Chinese leader, President Xi Jinping. A copy of this statement is attached hereto and marked as **Annexure "HRH 7"**. The significance of this visit and the role that former President Zuma played in the financing received by Transnet from CDB will be discussed below.
44. Although there were cheaper funding options available for Transnet to fund the acquisition of the Chinese manufactured locomotives (as stated by Ms Makgatho and Mr Mahomedy), Brian Molefe, Anoj Singh and Eric Wood did everything in their power and were determined to obtain funding specifically from CDB.
45. In January 2015 Regiments delivered a draft letter to the then Finance Minister, Nhlanhla Nene, for his signature, to urge CDB to re-consider the pricing of the funding transaction between Transnet and CDB. A copy of this draft letter is attached hereto and marked as **Annexure "HRH 8"**.
46. Former Minister Nene replied to Eric Wood telling him it was *"imperative that we allow the consultative process to be concluded and if at some point there is a need for a government to government discussion I am confident that such a*

*discussion will be initiated". A copy of this letter is attached hereto and marked as **Annexure "HRH 9"**.*

47. Eric Wood wasted no time in sending this letter to Salim Essa to keep him informed of what transpired with the CDB loan. Essa immediately forwarded the letter to Ashu Chawla, the CEO of Sahara Computers and a Gupta confidant who managed all the Gupta administration and correspondence. Within 2 hours after receipt of the Minister's letter, the Guptas were informed about it. A copy of this string of emails is attached hereto and marked as **Annexure "HRH 10"**.
48. In a statement released on behalf of Mr Brian Molefe on 2 March 2015, it was announced that Mr Phetolo Ramosebudi had been appointed as the Transnet Group Treasurer with effect from 1 March 2015. Ramosebudi joined Transnet from SAA, and it was stated that he was a seasoned and well-respected finance executive having held senior positions at the Airports Company South Africa (ACSA), the Development Bank of Southern Africa, National Treasury and was previously between 2006 and 2007 the Deputy Treasurer at Transnet responsible for Risk Management. A copy of this statement is attached hereto and marked as **Annexure "HRH 11"**.
49. With Regiments desperately trying to get the negotiations with CDB back on track, Teweros Gebreselasie of Regiments drafted a letter on Transnet's letterhead for Anoj Singh's signature, wherein he requested an urgent meeting between Transnet and CDB to reach a final agreement on the financing terms as well as to work towards a conclusion of the transaction. He sent this draft via email to Anoj Singh, Eric Wood and Phetolo Ramosebudi. The email is attached hereto and marked as **Annexure "HRH 12"**. The draft letter that was attached to the mail is attached hereto and marked as **Annexure "HRH 13"**.
50. The draft letter of Gebreselasie resulted in a letter dated 30 March 2015 signed by Brian Molefe and dispatched to the CEO of CDB to acknowledge that previous engagements were not successful and to request another round of negotiations. According to this letter by Molefe, which shows similarities to the Gebreselasie draft letter, Transnet found possible solutions to manage the costs associated



with the cross-currency swaps. This letter is attached hereto and marked as **Annexure "HRH 14"**.

51. On 31 March 2015, Mr Guan Lian replied to the letter received from Molefe. He confirmed that negotiations between Transnet and CDB were called off on 23 October 2014 and seemed very surprised that Transnet would suddenly call for renegotiations.
52. He stated that CDB occurred certain losses because of capital arrangements it made for the Transnet facility. He also said that the Transnet facility was not included in CDB's loan programme for the 2015 year and requested that Transnet send CDB proof of Transnet's currency swap solution for CDB to review and then to determine if CDB still wanted to meet with a Transnet delegation. From the tone of Lian's mail, it can be established that CDB did not consider doing business with Transnet anymore. This correspondence from CDB is attached hereto and marked as **Annexure "HRH 15"**.
53. The reply from Mr Guan Lian of CDB confirmed the statement of Ms Makgatho that Transnet was not prepared to negotiate further with CDB on the terms that were presented in 2014.
54. On 1 April 2015 Anoj Singh replied to Mr Guan Lian and informed him that it was never Transnet's intention to cease negotiations and that after a meeting between the President of South Africa, the Finance minister of South Africa and the Chairman of CDB and himself meeting with CDB officials in Beijing in December 2014, the intentions were clear that Transnet was indeed pursuing the funding proposal, but that it would be done at an appropriate time.
55. Singh also reminded Lian that Transnet had alternative options, but because of Transnet's commitment to the Chinese and South African governments and the BRICS leaders, Transnet remained steadfast in fulfilling its commitments. Singh made it clear that the meeting between former President Zuma and the Chairman of CDB addressed the cost of funding from CDB and paved the way for renegotiations. He mentioned that Transnet's GCE, Brain Molefe was also present at that meeting. Singh then requested that a meeting be held between

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Transnet and CDB in the next week. A copy of this letter is attached hereto and marked as **Annexure "HRH 16"**.

56. On the next day, 2 April 2015, Mr Guan Lian replied to Anoj Singh to set the facts straight. He informed Singh that CDB was always committed to assist Transnet, but that Transnet terminated the negotiations and did not give CDB any feedback for 50 days. He also stated that the loan price that CDB offered to Transnet was the most competitive among loans of its kind. He stressed that CDB took full account of the MOU that was signed previously between Transnet and CDB and acknowledged cooperation between BRICS countries.
57. Lian says that CDB was glad that Transnet found a solution to fund the costs without changing the terms and conditions of the loan. He confirmed that a meeting was scheduled to meet the Transnet team in Beijing on 7 April 2015. This email is attached hereto and marked as **Annexure "HRH 17"**.
58. Anoj Singh, Brian Molefe and Eric Wood were so desperate to continue negotiations with CDB that they had to rely on a meeting between former President Zuma and the CDB Chairman to persuade Mr Guan Lian to proceed with negotiations with Transnet. The question should be asked why they were so desperate to do business with CDB even after they were advised by Transnet's Group Treasurer that there were cheaper funding options available. Their desperation had them revert to Finance Minister Nene to request a letter from his office to convince CDB to return to the negotiations. They reminded CDB of the former President's state visit to China and his meeting with the Chairman of CDB, as their last resort to persuade CDB to return to the negotiation table.
59. The CDB loan ultimately cost South Africa millions of Rands more in fees and interest than other funding options available at the time. One of the reasons the CDB loan was so expensive, was the high arrangement fees that had to be shared with "syndicate members", as indicated in the draft term sheet prepared by CDB on 30 July 2014 (see Annexure "HRH 5"). To date, it was not possible to determine who these "syndicate members" were. The cost of funding of the

1064 locomotive acquisition, as attached to Mr Mahomed's statement mentioned above (see Annexure "HRH 6"), shows clearly that the upfront or arrangement fees paid to CDB were more than three times higher than upfront fees of any other funding Transnet obtained for locomotive acquisitions.

60. It will be required from Transnet and the law enforcement agencies to establish who were the recipients of the arrangement fees of approximately R300 million paid by Transnet (and ultimately the South African taxpayers). It should be established if the payment of this fee added any value to the funding of the locomotion acquisitions, if it was in the normal course of business to pay such an exorbitant fee and if it was distributed to any individuals/companies as a "kickback" for their role in the transaction. It must be demanded from CDB to provide proof of the distribution of any fees paid by Transnet on this loan.
61. A Transnet delegation comprising of Anoj Singh, Phetolo Ramosebudi, Eric Wood, Tewodros Gebreselasie, Frank Vein (from JP Morgan) and Wang Pan (from CSR) met with CDB in Beijing on 7 April 2015. These men later exchanged pictures of their trip to Beijing. A photo of the delegation in the streets of Beijing, taken by Wang Pan, is attached hereto as **Annexure "HRH 18"**.
62. On 16 April 2015, CDB sent an official mandate letter to Transnet that set out the terms and conditions on which they were willing to arrange a loan facility of US\$2,5 billion for Transnet to fund the acquisition of 232 diesel locomotives and 459 electric locomotives. The letter provided indicative terms for the loan facility and formed the basis of the agreement between Transnet and CDB. The terms set out in this mandate letter did not vary from the terms as described by Ms Makgatho in various correspondence to Molefe and Singh and it was evident that Transnet was unsuccessful in negotiating better terms as what was presented to Makgatho's team the year before. Molefe signed the mandate letter on 16 April 2015, paving the way for Transnet to obtain a loan from CDB on less favourable terms than what could be obtained from other financial institutions. A copy of this mandate letter is attached hereto and marked as **Annexure "HRH 19"**.



63. The next day 17 April 2015, former minister of Public Enterprises announced that Brian Molefe was seconded to Eskom with immediate effect. The signing of the mandate letter provided by CDB with their exorbitant fee structure would be Molefe's last act as the Group Chief Executive of Transnet. The official statement of former minister Brown is attached hereto and marked as **Annexure "HRH 20"**.
64. Also on 17 April 2015, and almost before the ink of Molefe's signature could dry on the mandate letter where he signed off on obtaining a loan from CDB, Eric Wood and Salim Essa started to calculate fees that they could make on the CDB deal. Louis Schutte from Regiments was tasked to calculate the fees that Regiments would be able to justify as Transaction Advisors to the borrower (Transnet). Just a few days later, Phetolo Ramosebudi submitted a memorandum to request a higher success fee for Regiments. This memorandum will be discussed below.
65. The fee calculation by Schutte resulted in a fee of approximately R166 million. He sent his results at 09:41 am on 17 April 2015 to Eric Wood and Tewodros Gebreselasie. The email containing his calculations is attached hereto and marked as **Annexure "HRH 21"**.
66. Eric Wood shared this fee calculation with Essa later the same morning whereon Essa replies as follows:

"Hi Eric

This is for 1 stream...what about the other 2 (the \$1b CPI and the hedge on the 1.5B)

Thx

S"

The contents of these emails suggest that Wood and Essa planned together on what the amount of the fee should be and how it should be motivated, for Transnet to pay it. It also suggests that Essa was already planning for the fees on the CLUB loan and the cross-currency swaps on the USD1,5 billion. This string of emails between Wood and Essa is attached hereto and marked as **Annexure "HRH 22"**.

67. On 2 June 2015, Zhibin Fan from Ashurst (the legal firm acting on behalf of CDB) distributed the CDB/Transnet Term Facility Agreement to the different parties with signing instructions. This agreement was signed on 4 June 2015. The email of Zhibin Fan is attached hereto as **Annexure "HRH 23"** and the Term Sheet for execution and signing attached to his email is attached hereto and marked **Annexure "HRH 24"**.
68. A document dated 21 April 2015 that was modified on 22 April 2015 and prepared by Eric Wood (according to the metadata) was handed to Phetolo Ramosebudi. This document outlined the work Regiments had done regarding a funding plan for Transnet. At that time, the CDB loan was not yet finalised or signed by Transnet. This document is a 3-page detailed report of services rendered by Regiments to Transnet. At the end of the document, a final success fee is shown with a note that there is a mutual agreement between Transnet and Regiments that this is the final fee payable to Regiments. The amount of R166 million is similar to the amount that was calculated by Louis Schutte and discussed with Salim Essa by Eric Wood as shown in Annexures "HRH 21" and "HRH 22" above. A copy of this document motivating the Regiments fee is attached hereto and marked as **Annexure "HRH 25"**.
69. Phetolo Ramosebudi compiled a memorandum dated 28 April 2015 and addressed it to the Acquisitions and Disposals Committee ("ADC") which motivated the appointment, in confinement, of JP Morgan & Regiments Capital to conclude the CDB loan. The memorandum was recommended by Messrs Anoj Singh, Garry Pita and Siyabonga Gama. A copy of this memorandum is attached hereto and marked as **Annexure "HRH 26"**. The contents of this memorandum and the contents of the Regiments document as seen in Annexure "HRH 25" are similar, and it seems that Ramosebudi used Eric Wood's document to compile his memorandum.
70. The recommendation requested was for the ADC to approve the following:
- The confined appointment of JP Morgan to hedge the financial risks (interest rate; credit and currency risk) emanating from the US\$1,5 billion China Development Bank (CDB) loan back into ZAR;

- The confined appointment of JP Morgan to lead and underwrite the equivalent syndicated ZAR loan of US\$1,5 billion;
- The contract extension from R99,5 million to R265,5 million for the appointment of Regiments Capital for transaction advisory services and support to Transnet on the 1064 locomotive transaction, and;
- Delegate authority to the Acting GCE to approve all documentation related to the confinement.

71. The request was approved by the ADC on 29 April 2015 under resolution number 01-15/16FY-3. Mr Stanley Shane was the Chairperson of the ADC meeting with committee members Linda Mabaso and Zainul Nagdee being present when this resolution was adopted. A copy of this resolution is attached hereto and marked as **Annexure "HRH 27"**.

72. The attendance register shows that Anoj Singh was present in this Board Committee meeting. He was part of management who convinced the ADC that Regiments' contributions were "invaluable" for the successful conclusion of the CDB loan. What Singh neglected to do, was to inform the members of the ADC that the Transnet Treasury team did most of the early negotiations under the guidance of the Transnet Group Treasurer, Ms Makgatho. Singh also failed to inform the Board members that the terms and conditions of the CDB loan were not the most favourable for Transnet and the country. He also did not notify the Board about the exorbitant arrangement fees and interest that would cost Transnet an extra R3,7 billion over the loan duration. Anoj Singh had first-hand knowledge of all the above-mentioned issues but failed in his fiduciary duties as the CFO of Transnet to inform the Board. He instead advocated for an increased fee of R166 million for Regiments, based on a document that the recipients of the payment prepared themselves.

73. It should be noted that the Chairperson of the Acquisitions and Disposals Committee, Mr Stanley Shane is a close associate of Salim Essa and Eric Wood. Shane was a director of Integrated Capital, who were tasked by Essa to establish the Trillian group. Trillian would later be headed up by Wood and took over the majority of Regiments' business at Transnet and Eskom.

74. It must once again be emphasised that Transnet had an internal Treasury department with competent, skilled and experienced personnel who were capable of executing the loan agreement with CDB or any other financial institute with better terms and conditions for Transnet and the South African taxpayer.
75. The CDB loan was signed on 4 June 2015 with the following terms:
- Facility - US\$ 2,5 billion
 - Committed facility - US\$ 1,5 billion
 - Stand-by facility - US\$ 1,0 billion
 - Date of agreement - 4 June 2015
 - Grace period - 54 months (end December 2019)
 - Tenure of debt - 15 years
 - Interest cost - 3month JIBAR + 257bps
 - Arrangement Fee - 1.18% (USD17,7million)
76. The CDB loan was predicated on the acquisition of the locomotives delivered to Transnet by the Chinese suppliers in that a utilisation request (drawing down from the debt facility) was subject to proof of locomotive delivery, i.e. serial numbers, sign-off from the Engineer, photos etc. (refer to the Term Facility Agreement attached as Annexure "HRH 24").
77. Regarding any utilisation of any part of the loan, I specifically refer to Section 2, par 4.2 (a) of the loan agreement where it is stated that the Lender will only be obliged to make a loan available to the Borrower if on the date of the Utilisation Request an amount of at least the equivalent to the Equity Contribution has already been paid by the Borrower to the Commercial Vendors under the commercial contracts. Section 3 par 5.2(a)(iv) of the loan agreement goes further and states that a Utilisation Request must be accompanied by the relevant invoices, statement of the Commercial Vendor, payment certificates and acceptance certificates for any part of the loan to be paid by the Lender to the Borrower. These requirements become very relevant with the interest swaps that followed after the initial drawdown from the CDB loan.

78. Notwithstanding the agreement between Transnet and CDB only being concluded and signed on 4 June 2015, Regiments already delivered an invoice (Inv No: TRXFR00001) to Transnet on 3 June 2015, for a success contingency fee on their work towards the CDB loan, totalling R189,240,000.00 (VAT incl). A copy of this invoice is attached hereto and marked as **Annexure "HRH 28"**. On the invoice appears Regiments' bank details and a handwritten note – "approved by ADC" which is initialled by Anoj Singh.
79. On 12 June 2015 Transnet issued a remittance to Regiments that shows payment in the amount of R189,240,000.00 for invoice number TRXFR00001 into Regiments' bank account held at Standard Bank. Note that payment for this invoice took only 8 days. The Transnet remittance is attached hereto and marked as **Annexure "HRH 29"**.
80. The Regiments Capital bank statement for June 2015 confirms that the payment was made into their Standard Bank account. The relevant bank statements (10 June 2015 - 24 June 2015) are attached hereto and marked as **Annexure "HRH 30"** and will be discussed in the paragraphs below.
81. The June 2015 bank statement of Regiments reflects that except for one other deposit of R17,000,000.00 by Tech-Pro on 11 June 2014, there were no other deposits into this account. The full amount paid by Tech-Pro, was paid out the very next day, 12 June 2015, to the Gupta owned newspaper, The New Age. Previous investigations into this deposit indicated that this was an irregular transaction and a criminal complaint was laid at SAPS Bramley on 16 November 2016 with CAS number 274/11/2016.
82. Regiments used the money received from Transnet to pay various third parties such as SARS, WITS University, attorneys and salaries. There were three payments of R2,000,000.00 made to each to the directors of Regiments, Messrs Nyhonyha, Pillay and Wood. All these payments reflect in Annexure "HRH 30".
83. On 15 June 2015, Regiments transferred R162,000,000.00 of the money received from Transnet to a Standard Bank Call Deposit Account (Account



number [REDACTED], held in Regiments' name. This transfer also reflects in Annexure "HRH 30". Attached hereto and marked as **Annexure "HRH 31"**, is a Statement Request that confirms the Standard Bank Call Deposit account with account number 467356 belonging to Regiments Capital.

84. In an email dated 16 June 2015, Kuben Moodley of Albatime writes to Eric Wood to inform him that in accordance with an agreement between Regiments and Albatime certain "splits" were agreed upon between Regiments and Albatime on money received from Transnet. In the email, Moodley states the following:

"Eric, I went through our contract last night and the following was agreed, as per splits:

50/5, 40/4,5, 30/3,5, 20/2,5 and 5/1 percent to Albatime. So as per agreement, Albatime should receive 3 percent of 166.

Regards

Kuben Moodley"

85. Wood replies to the email, stating:

"Hi Kuben

Accept, a deal is a deal

Regards

Eric"

86. This email correspondence confirms that there was an agreement between Regiments and Albatime insofar certain "kickbacks" that Albatime would receive from Regiments on Transnet payments. The string of emails is attached hereto and marked as **Annexure "HRH 32"**.

87. On 17 June 2015, Albatime issued an invoice (Invoice Nr REG137) for the amount of R5,677,200.00 to Regiments. The description on this invoice is the invoice number (TRXF00001) of the Regiments invoice issued to Transnet. The banking details reflect as ABSA Bank, account number [REDACTED]. This invoice is attached hereto and marked **Annexure "HRH 33"**.

88. On 22 June 2015, a payment was made from Regiments to Albatime in the amount of R5,677,200.00. This is payment for the REG137 invoice and is exactly 3% of the R189,240,000.00 received from Transnet and confirmed the "splits" between Kuben Moodley and Eric Wood as mentioned above. This payment to Albatime can be seen in the Regiments bank statement attached as Annexure "HRH 30".
89. This payment also reflects in the ABSA bank statement of Albatime. The account number for the Albatime account is the same as shown in the invoice that was issued to Regiments – [REDACTED]. The relevant page of the bank statement is attached hereto and marked as **Annexure "HRH 34"**.
90. The Standard Bank statement of Regiments (Annexure "HRH 30") shows that after the payment to Albatime, the account balance was almost back to the balance as it was before the Transnet payment. This confirms that all transactions between 12 June 2015 and 22 June 2015 were done with the funds received from Transnet.
91. In his statement to the State Capture Commission, Mr Ian Sinton of Standard Bank stated that he met with Mr Niven Pillay of Regiments after he wrote a letter to Regiments with enquiries regarding the source of funds and the application thereof, reflected in Regiments' bank account. Mr Sinton's statement is attached hereto and marked as **Annexure "HRH 35"**.
92. Mr Sinton stated that he met with Mr Pillay, Mr Nyhonhya and Mr John Rossouw of Regiments on 6 October 2017. During this meeting, Mr Pillay explained the relationship between Regiments and Albatime. Mr Sinton's statement reads as follows:

"In or about October 2012, Pillay and Mr. Eric Wood (Wood), both being directors of Regiments, were invited by a friend of Pillay, Mr. Kuben Moodley (Moodley), to a meeting in Sandton where they met, for the first time, Mr. Vikas Sagar (Sagar) (a partner at McKinsey) and Mr. Salim Essa

(Essa). In that meeting Regiments was informed that McKinsey had concluded a consultancy contract with Transnet, but that Transnet required McKinsey to appoint a black-owned "Supplier Development Partner" (SDP), for at least 30% of the consultancy fees to be earned. McKinsey was therefore offering to appoint Regiments as its SDP subject to Regiments agreeing to share 30% of all income thereby received with Essa. This would be in addition to the 5% of all income received from Transnet that Regiments agreed would be payable to Moodley. Neither Essa nor Moodley would render any service beyond introducing Regiments to McKinsey and Transnet."

93. A similar written explanation was given to the South African Reserve Bank ("SARB") by Regiments' attorneys, Smit Sewgoolam Incorporated regarding an investigation into the affairs of Homix (Pty) Ltd, by the SARB. This letter forms part of the Head of Department: Financial Surveillance, Mr Shiwa Elijah Mazibuko's statement at the State Capture Commission and is attached hereto as **Annexure "HRH 36"**.
94. Further investigations into this payment from Transnet to Regiments shows that another R141,930,000.00 was paid to Albatime and ultimately ended up in the bank accounts of several Gupta and Essa related companies. The flow of money regarding this payment is described below.
95. Two invoices from Albatime with the same invoice number, REG138, were submitted to Regiments. The amounts on both these invoices were the same – R141,930,000.00.
96. The first REG138 invoice was sent to Eric Wood and Yvonne Mokone of Regiments on 24 June 2015. The description on the invoice was noted as "CDB". In his mail, Kuben Moodley informed Yvonne Mokone the following:

"Hi Yvonne

Please NOTE new Bank Details for THIS TRANSACTION

Bank: Nedbank



Account: [REDACTED]

REFERENCE: ALBATIME

Branch: [REDACTED]

Account Number: [REDACTED]

A copy of this email is attached hereto and marked as **Annexure "HRH 37"** and a copy of the invoice is attached hereto as **Annexure "HRH 38"**.

97. The second REG138 invoice was sent to Eric Wood, Yvonne Mokone and Hanlie de Boer on 3 July 2015. There is no message or content in this email other than a subject – *invoice for IT services*. The invoice attached to the email had a description - *"IT Sales and Support, AQND AMC for 2 years contract 2012-2014"*. This email is attached hereto and marked as **Annexure "HRH 39"**, and a copy of the invoice is attached hereto and marked as **Annexure "HRH 40"**.
98. On both these invoices, the banking details are different from all other Albatime invoices that were submitted to Regiments. These two invoices show Albatime's banking details as a Bank of Baroda account as opposed to the ABSA account details on all other invoices.
99. The dates on both invoices are 22 June, but on the first invoice ("HRH 38") the year is shown as 2011 and the second invoice ("HRH 40") it is shown as 2015. This "2011" date should be treated as a typo as the metadata shows that this document was created in 2015.
100. The metadata of the first invoice ("HRH 38") shows that the document was created by Salim Essa on 24 June 2015. A printout of the metadata for this invoice is attached hereto and marked as **Annexure "HRH 41"**. The email to which this invoice was attached, shows that the mail was forwarded to Regiments. The subject of the email is *"FWD: Reg138"* which indicates that the email was forwarded from another sender. I suspect that Salim Essa prepared the invoice (as shown by the metadata), sent it to Moodley who in turn forwarded it to Regiments.



101. There is no indication on who the author of the second invoice was, but the metadata shows that it was created on 3 July 2015. A printout of the metadata for this invoice is attached hereto and marked as **Annexure "HRH 42"**.
102. Although the two invoices of Albatime differ in some instances, the amounts and the banking details are the same.
103. It is important at this stage to note that the Bank of Baroda, an Indian registered bank, operating and conducting banking services in South Africa, does not have its own platform to receive and transfer funds to a third party's bank account and does not operate as a clearing bank in South Africa. The Bank of Baroda makes use of Nedbank as their corresponding bank where they (Bank of Baroda) held a universal account with account number [REDACTED]. (This is the account number on the Albatime invoices). Nedbank will act on instruction from the Bank of Baroda with regards to any Bank of Baroda client. Any payments to a Bank of Baroda client will be received in the Nedbank account, where after Bank of Baroda will allocate the money to the client's Bank of Baroda account. When a Bank of Baroda client instructs the bank to make a payment or transfer money on its behalf, Bank of Baroda will instruct Nedbank to execute the instruction and Bank of Baroda will then debit its own records for a specific client or account holder.
104. The Bank of Baroda statement for its universal account held at Nedbank (A/C no [REDACTED]) shows that Regiments paid the amount stated on the Albatime invoice(s) into the said bank account. The total amount of R141,930,000.00 was not paid in one payment into the Bank of Baroda account but staggered in seven different payments. The table below summarises the payments from Regiments into the Bank of Baroda universal account. The annexures in the third column of the table are extracts from the Bank of Baroda universal account statements that show when these payments were received in the account. The payments are highlighted in the annexures for ease of reference.

Date	Amount (ZAR)	Annexure
25 June 2015	20,000,000.00	"HRH 43"
26 June 2015	20,000,000.00	"HRH 44"
26 June 2015	20,000,000.00	"HRH 44"
27 June 2015	20,000,000.00	"HRH 45"
27 June 2015	20,000,000.00	"HRH 45"
30 June 2015	40,000,000.00	"HRH 46"
30 June 2015	1,930,000.00	"HRH 46"
Total	141,930,000.00	

105. Perry Tambatamba the Group Financial Manager of Regiments, provided the reason for the staggered payments in an email that he directed to Eric Wood and Yvonne Mokone on 25 June 2015 at 11:31 am. He indicated that Regiments had a payment limit of R20million per day. He further indicated that he would in the meantime, apply for an increase in the daily payment limit. He attached a schedule to his email to show the dates he would release payments to Albatime.

106. The dates and amounts in Tambatamba's schedule relate with the dates and amounts that were recorded on the Bank of Baroda universal statement. It seems that he was successful in increasing the daily payment limit because the last payment to Albatime was in the amount of R40million. A copy of Tambatamba's email is attached hereto as **Annexure "HRH 47"** and the schedule that was attached to his email is marked and attached hereto as **Annexure "HRH 48"**.

107. As described above, any payments to a Bank of Baroda client will be made to the universal Nedbank account where after it will be allocated to the client's specific account at the Bank of Baroda. The payments received for Albatime were paid into Bank of Baroda's Nedbank account (account number [REDACTED]) where after it was allocated by the Bank of Baroda to Albatime's specific account with account number [REDACTED]. A copy of Albatime's specific account at the Bank of Baroda is attached hereto and marked as **Annexure "HRH 49"**. This statement shows the payments of R141,930,000.00 that Regiments made to the Bank of Baroda Nedbank account, were credited to the Albatime account between 26 June 2015 and 30 June 2015.
108. The amount of R141,930,000.00 that ended up in Albatime's Bank of Baroda account is precisely 75% of the R189,240,000.00 Regiments received from Transnet for the so-called "*Success contingency fee*" related to "*Debt originating \$1,5billion – China Development Bank*" and "*Arrangement of cross-currency Swap and credit default Swap with JP Morgan*" as stated in their TRXFR00001 invoice of 3 June 2015.
109. The paragraphs below will show that the Albatime account at the Bank of Baroda was opened by Kuben Moodley for one reason only, to be used as a conduit to launder funds paid by Transnet to Regiments (and later Trillian) and move it to Salim Essa and several companies under the control and management of Salim Essa and/or the Gupta family.
110. The Albatime Bank of Baroda statement shows that the balance of the account before the payments received from Regiments was nil Rand. The account was opened by Kuben Moodley on 23 June 2015, only three days before the first Regiments payment was received. Moodley signed the opening documents for the Albatime account at the Bank of Baroda on 23 June 2015 and thus the nil Rand balance on the same date. The documents for an application to open a current account at the Bank of Baroda for Albatime (Pty) Ltd are attached hereto and marked as **Annexure "HRH 50"**.

111. Between 23 June 2015 and 24 August 2015 there were no deposits made into the Albatime account other than the Regiments payments totalling R141,930,000.00. The only additional funds to the Regiments payments reflecting in the account was interest earned in the total amount of R292,073.25. (see Annexure "HRH 49")
112. On 27 June 2015, Sahara Computers (Pty) Ltd issued an invoice to Albatime for the amount of R139,080,000.00. The description on the invoice is the same as the description on the second Albatime invoice issued to Regiments ("HRH 40") - *"IT Services Support, AQND AMC for 2 years contract 2012-2014"*. The amount is exactly 2% less than the REG138 invoice Albatime issued to Regiments. This Sahara invoice is attached hereto and marked as Annexure "HRH 51".
113. The Albatime Bank of Baroda statement shows that between 3 July 2015 and 24 August 2015 large payments were made to several entities.
114. On 3 July 2015, an Electronic Funds Transfer ("EFT") in the amount of R52,155,000.00 was made from Albatime to Sahara Computers. This payment (highlighted in the annexure for ease of reference) reflects on Albatime's Bank of Baroda statement and is attached hereto and marked as **Annexure "HRH 52"**. The payment was received on the same date in Sahara Computers' Absa account, with account number [REDACTED]. A copy of the relevant page of the Sahara statement where the payment is highlighted is attached hereto and marked **Annexure "HRH 53"**.
115. On 15 July 2015 two EFT payments from Albatime were made to an entity called Hastauf in the amounts of R2,000,000.00 and R14,820,000.00. The Albatime statement where these payments are highlighted is attached hereto and marked as **Annexure "HRH 54"**. Hastauf (Pty) Ltd held a bank account at Standard Bank Tshwane Mid City branch with account number 011024917. Hastauf's bank statements show that the two payments made by Albatime were received in the said Standard Bank account on 15 July 2015. This relevant page of Hastauf's bank statement is attached hereto and marked as **Annexure "HRH 55"**.

116. Also on 15 July 2015, Albatime made an EFT payment to an entity called Forsure Consultants in the amount of R14,820,000.00. The Albatime statement where this payment is highlighted is attached hereto and marked as **Annexure "HRH 56"**. Forsure Consultants (Pty) Ltd held a bank account at Standard Bank Tshwane Mid City branch with account number [REDACTED]. Forsure's bank statements show that the payment made by Albatime was received in the said Standard Bank account on 15 July 2015. This relevant page of Forsure's bank statement is attached hereto and marked as **Annexure "HRH 57"**.
117. On 23 July 2015, Albatime made another EFT payment to Hastauf in the amount of R850,000.00. The Albatime statement where this payment is highlighted is attached hereto and marked as **Annexure "HRH 58"**. Hastauf's bank statements show that the payment made by Albatime was received in its Standard Bank account on 23 July 2015. This relevant page of Hastauf's bank statement is attached hereto and marked as **Annexure "HRH 59"**.
118. On 27 July 2015, an EFT payment of R20,000,000.00 was made from Albatime to Sahara Computers. This payment is highlighted and reflects in Albatime's Bank of Baroda statement and is attached hereto and marked as **Annexure "HRH 60"**. The payment was received on the same date in Sahara Computers' Absa account. A copy of the relevant page of the Sahara statement where the payment is highlighted is attached hereto and marked **Annexure "HRH 61"**.
119. On 6 August 2015, an amount of R20,000,000.00 was paid via EFT into the ABSA account of Salim Aziz Essa, account number [REDACTED]. This payment is highlighted and reflects in Albatime's Bank of Baroda statement and is attached hereto and marked as **Annexure "HRH 62"**. The relevant page of Salim Essa's Absa bank statement where the payment from Albatime is reflected is attached hereto and marked as **Annexure "HRH 63"**.
120. Also on 6 August 2015, an EFT payment of R15,000,000.00 was made from Albatime to Sahara Computers. This payment is highlighted and reflects in Albatime's Bank of Baroda statement and is attached hereto and marked as **Annexure "HRH 64"**. The relevant page of Sahara's Absa bank statement

where the payment from Albatime is reflected is attached hereto and marked as **Annexure "HRH 65"**.

121. On 24 August 2015, an amount of R2,500,000.00 was transferred from Albatime's Bank of Baroda account to an entity called Dinover. The Albatime statement where this payment is highlighted is attached hereto and marked as **Annexure "HRH 66"**. No bank statement for Dinover is available to me, and the authorities are requested to retrieve this entity's bank statements to confirm that Dinover, in fact, received the R2,5million payment.
122. Dinover was registered on 13 March 2015 and later changed its name to Cureva on 20 July 2017. It again changed its name to Mediosa Health and was awarded tenders from the Free State Province and the North West Province to supply mobile medical clinics to the respected provinces. The company filed a COR123.1 notice for Business Rescue at CIPC on 8 March 2018. It is common knowledge that Mediosa was a Gupta driven company. This is evident from emails and documentation that was retrieved from the Guptaleaks. Kuben Moodley served as a director of the company from 14 January 2016 until 21 June 2017. A CIPC disclosure certificate for Dinover who later became Mediosa Health is attached hereto and marked as **Annexure "HRH 67"**.
123. In summary, it is evident from the Bank of Baroda statements that Albatime received R141,930,000.00 from Regiments. Interest earned by Albatime added up to an amount of R292,072.25. Albatime transferred a total amount of R142,145,000.00 out of its account to several individuals and entities. Ultimately, Albatime paid out every cent it received from Regiments plus R215,000.00 of the interest that was earned over the relevant period, leaving the account with a balance of R77,073.25 on 24 August 2015. (refer to Annexure "HRH 49")
124. Hastauf (Pty) Ltd and Forsure Consultants (Pty) Ltd were not the only companies in the money laundering network of Regiments, Salim Essa, Kuben Moodley and the Guptas. Regiments had several consultancy and advisory contracts with Transnet. Whenever Regiments received payment on these contracts, they would pay high percentages of their income over to newly registered companies

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who had no track record of previous business activities, business premises, employees, or any other business relationships. These companies would open bank accounts, mainly at Standard Bank and Habib Bank, to exclusively receive payments from Regiments, Trillian and Albatime and then to transfer the funds immediately to other entities. Hastauf and Forsure Consultants were two such companies in the network of companies used for money laundering purposes.

125. Information and evidence held by OUTA revealed that as soon as Hastauf and Forsure Consultants received payments from Albatime as shown previously in this affidavit, they would within days transfer the money to other entities. In some instances, both Hastauf and Forsure would pay money to the same third party entities on the same day. Although not all the entities who received payments could be traced or identified because of the cryptic references used on the bank statements, some were positively identified and will be discussed below. The authorities must request the electronic bank reports for the Hastauf and Forsure bank accounts to identify the unknown recipients of funds.

126. The table below will show the entities (as referenced on the bank statements) who received payments from Hastauf and Forsure.

Recipient	Paid by Hastauf	Paid by Forsure
IPocket Global	6,206,973.93	9,376,000.00
Eye Gold	4,347,778.00	0
Sanfar Projects	4,650,000.00	0
Packty Trading	2,859,936.56	0
Mod Urban	1,782,201.00	763,799.00
Hip Hop Dance	310,000.00	143,250.00
Interglo	0	5,232,000.00
Total	20,156,889.49	15,515,049.00

127. The total amount paid by Hastauf and Forsure Consultants to these seven entities is R35,671,938.49.
128. The relevant pages of Hastauf's Standard Bank statements that shows the payments as indicated in the table above are attached hereto and Marked as **Annexure "HRH 68"**.
129. The relevant pages of Forsure's Standard Bank statements that shows the payments as indicated in the table above are attached hereto and marked as **Annexure "HRH 69"**.
130. As previously mentioned, not all the recipients could be identified, but I did manage to positively identify three of the recipients, namely IPocket Global, Hip Hop Dance and Mod Urban. The details of these companies are described in paragraphs 8.26, 8.27 and 8.28 above.
131. In the bank statements of Hastauf and Forsure, payments made to IPocket Global was done with 2 different references. IPocket held an account at Nedbank and at First National Bank. The reference for payments to Nedbank is indicated as "GI Pocket" and the reference for payments to FNB is shown as "IP Global". The directors of IPocket Global are Messrs Werner Fuls (ID [REDACTED]) and Bernardus van Zijl (ID [REDACTED]). Both these individuals have strong foreign business connections. The CIPC disclosure certificate of IPocket Global (Pty) Ltd is attached hereto as **Annexure "HRH 70"**.
132. IPocket Global was registered on 20 April 2015. The current status of the company is that it was placed in Voluntary Liquidation on 23 August 2016. It seems strange that a company was placed into liquidation only a year after it received payments of millions of Rands. IPocket Global did not only receive payments from Hastauf and Forsure when they were paid by Albatime, but it also received payments from Hastauf and Forsure when they were paid directly from Regiments Capital whenever Regiments received payments from Transnet.

133. IPocket Global received total payments of R14,410,972.93 from Hastauf and total payments from Forsure in the amount of R21,657,466.00. These payments to IPocket were all made between 6 July 2015 and 24 July 2015 to the two bank accounts of IPocket Global held at Nedbank and FNB.
134. Werner Fuls, the co-director of IPocket Global is according to his profile on LinkedIn, a director of the First Swiss Services Family Office in Switzerland. He is also the project funding and tax specialist for a company known as Dabar Energy and holds a Chartered Accountant qualification. He is also the CEO of an international energy company Avelar Energy SA. His profile at Dabar Energy indicates that he is managing wealth and family structures for some of South Africa's wealthiest families.
135. Mr Fuls is a highly qualified and experienced accountant. He must explain to the authorities how he got involved with Hastauf and Forsure and who were the principals of these companies. He should explain for what reason his company was paid by Hastauf and Forsure, what did he do with the millions of Rands he received and if there were any special instructions regarding these payments. He should explain if there were any interactions with Essop and Hasware, the directors of Hastauf and Forsure or did he deal with someone else regarding the business transactions as mentioned above. It should also be established if Mr Fuls acted in accordance with the ethical and professional prescripts of any professional oversight body he was or still is a member of.
136. The other director of IPocket Global, Berardus (Bernie) van Zijl is a highly qualified businessman with vast experience in the field of education, financial management and marketing. Van Zijl should also be questioned on the business of IPocket Global and the huge amounts of money received by Salim Essa linked companies.
137. The other two companies which could be positively identified is Hip Hop Dance Championship and Mod Urban Connexion. Both these companies have a common director, Mr Fairchild Phiri (ID [REDACTED]). Mr Phiri's spouse Diane Natasha Alexander and Mr Vance Andrew de Kock are co-directors of Hip

Hop Dance Championship. It should be noted that Hip Hop Dance Championship is a Non-Profit Company.

138. The CIPC disclosure certificate for Hip Hop Dance Championship is attached hereto and marked as **Annexure "HRH 71"**.
139. The CIPC disclosure certificate for Mod Urban Connexion is attached hereto and marked as **Annexure "HRH 72"**.
140. Mr Phiri, as the common director for both these companies should be interrogated to provide an explanation for the R2,999,250.00 these two companies received in total from Hastauf and Forsure.

CRIMINAL CHARGES

141. I hereby request that investigations be instituted against the following individuals for, but not limited to, the following criminal activities and misconduct with regards to various legislation:

BRIAN MOLEFE

- Corruption
- Fraud
- Extortion
- Conspiracy to commit fraud, extortion and corrupt activities
- Prevention and Combatting of Corrupt Activities Act 12 of 2004 (POCA)
- Prevention and Combating of Corrupt Activities Act 2004 (PRECCA)
- Financial Intelligence Centre Act No. 38 of 2001 (FICA)
- Companies Act 71 of 2008
- Public Management Financial Act 1 of 1999 (PFMA)

ANOJ SINGH

- Corruption
- Fraud
- Extortion
- Money laundering
- Conspiracy to commit fraud, extortion and corrupt activities
- Prevention and Combatting of Corrupt Activities Act 12 of 2004 (POCA)
- Prevention and Combating of Corrupt Activities Act 2004 (PRECCA)
- Financial Intelligence Centre Act No. 38 of 2001 (FICA)
- Companies Act 71 of 2008
- Public Management Financial Act 1 of 1999 (PFMA)

SIYABONGA INNOCENT GAMA

- Corruption
- Fraud
- Extortion
- Money laundering
- Conspiracy to commit fraud, extortion and corrupt activities
- Prevention and Combatting of Corrupt Activities Act 12 of 2004 (POCA)
- Prevention and Combating of Corrupt Activities Act 2004 (PRECCA)
- Financial Intelligence Centre Act No. 38 of 2001 (FICA)
- Companies Act 71 of 2008
- Public Management Financial Act 1 of 1999 (PFMA)

GARRY JASON PITA

- Corruption
- Fraud
- Extortion
- Money laundering
- Conspiracy to commit fraud, extortion and corrupt activities

- Prevention and Combatting of Corrupt Activities Act 12 of 2004 (POCA)
- Prevention and Combating of Corrupt Activities Act 2004 (PRECCA)
- Financial Intelligence Centre Act No. 38 of 2001 (FICA)
- Companies Act 71 of 2008
- Public Management Financial Act 1 of 1999 (PFMA)

PHETOLO RAMOSEBUDI

- Corruption
- Fraud
- Extortion
- Money laundering
- Conspiracy to commit fraud, extortion and corrupt activities
- Prevention and Combatting of Corrupt Activities Act 12 of 2004 (POCA)
- Prevention and Combating of Corrupt Activities Act 2004 (PRECCA)
- Financial Intelligence Centre Act No. 38 of 2001 (FICA)
- Companies Act 71 of 2008
- Public Management Financial Act 1 of 1999 (PFMA)

KUBENTHERAN MOODLEY

- Corruption
- Fraud
- Extortion
- Money Laundering
- Conspiracy to commit fraud, extortion and corrupt activities
- Prevention and Combatting of Corrupt Activities Act 12 of 2004 (POCA)
- Prevention and Combating of Corrupt Activities Act 2004 (PRECCA)
- Financial Intelligence Centre Act No. 38 of 2001 (FICA)



SALIM AZIZ ESSA

- Corruption
- Fraud
- Extortion
- Money Laundering
- Conspiracy to commit fraud, extortion and corrupt activities
- Prevention and Combatting of Corrupt Activities Act 12 of 2004 (POCA)
- Prevention and Combating of Corrupt Activities Act 2004 (PRECCA)
- Financial Intelligence Centre Act No. 38 of 2001 (FICA)

ATUL KUMAR GUPTA

- Corruption
- Fraud
- Extortion
- Money Laundering
- Conspiracy to commit fraud, extortion and corrupt activities
- Prevention and Combatting of Corrupt Activities Act 12 of 2004 (POCA)
- Prevention and Combating of Corrupt Activities Act 2004 (PRECCA)
- Financial Intelligence Centre Act No. 38 of 2001 (FICA)

CHETALI GUPTA

- Corruption
- Fraud
- Extortion
- Money laundering
- Conspiracy to commit fraud, extortion and corrupt activities
- Prevention and Combatting of Corrupt Activities Act 12 of 2004 (POCA)
- Prevention and Combating of Corrupt Activities Act 2004 (PRECCA)
- Financial Intelligence Centre Act No. 38 of 2001 (FICA)

ERIC ANTHONY WOOD

- Corruption
- Fraud
- Extortion
- Money laundering
- Conspiracy to commit fraud, extortion and corrupt activities
- Prevention and Combatting of Corrupt Activities Act 12 of 2004 (POCA)
- Prevention and Combating of Corrupt Activities Act 2004 (PRECCA)
- Financial Intelligence Centre Act No. 38 of 2001 (FICA)

MAGANDHERAN (NIVEN) PILLAY

- Corruption
- Fraud
- Extortion
- Money laundering
- Conspiracy to commit fraud, extortion and corrupt activities
- Prevention and Combatting of Corrupt Activities Act 12 of 2004 (POCA)
- Prevention and Combating of Corrupt Activities Act 2004 (PRECCA)
- Financial Intelligence Centre Act No. 38 of 2001 (FICA)

LITHA MVELISO NYHONYHA

- Corruption
- Fraud
- Extortion
- Money laundering
- Conspiracy to commit fraud, extortion and corrupt activities
- Prevention and Combatting of Corrupt Activities Act 12 of 2004 (POCA)
- Prevention and Combating of Corrupt Activities Act 2004 (PRECCA)
- Financial Intelligence Centre Act No. 38 of 2001 (FICA)

DAVID STANLEY SHANE

- Companies Act 71 of 2008
- Public Management Financial Act 1 of 1999 (PFMA)

LINDA CAROL MABASO

- Companies Act 71 of 2008
- Public Management Financial Act 1 of 1999 (PFMA)

MOGOKARE RICHARD SELEKE

- Companies Act 71 of 2008
- Public Management Financial Act 1 of 1999 (PFMA)

ZAINUL ABEDEEN NAGDEE

- Companies Act 71 of 2008
- Public Management Financial Act 1 of 1999 (PFMA)

WASSIM ESSOP

- Corruption
- Fraud
- Money laundering
- Conspiracy to commit fraud and corrupt activities
- Prevention and Combatting of Corrupt Activities Act 12 of 2004 (POCA)
- Prevention and Combating of Corrupt Activities Act 2004 (PRECCA)
- Financial Intelligence Centre Act No. 38 of 2001 (FICA)



TAFIQUE SHAUKAT HASWARE

- Corruption
- Fraud
- Money laundering
- Conspiracy to commit fraud and corrupt activities
- Prevention and Combatting of Corrupt Activities Act 12 of 2004 (POCA)
- Prevention and Combating of Corrupt Activities Act 2004 (PRECCA)
- Financial Intelligence Centre Act No. 38 of 2001 (FICA)

WERNER FULS

- Corruption
- Fraud
- Money laundering
- Conspiracy to commit fraud and corrupt activities
- Prevention and Combatting of Corrupt Activities Act 12 of 2004 (POCA)
- Prevention and Combating of Corrupt Activities Act 2004 (PRECCA)
- Financial Intelligence Centre Act No. 38 of 2001 (FICA)

BERNARDUS (BERNIE) VAN ZIJL

- Corruption
- Fraud
- Money laundering
- Conspiracy to commit fraud and corrupt activities
- Prevention and Combatting of Corrupt Activities Act 12 of 2004 (POCA)
- Prevention and Combating of Corrupt Activities Act 2004 (PRECCA)
- Financial Intelligence Centre Act No. 38 of 2001 (FICA)

FAIRCHILD PHIRI

- Corruption
- Fraud
- Money laundering
- Conspiracy to commit fraud and corrupt activities
- Prevention and Combatting of Corrupt Activities Act 12 of 2004 (POCA)
- Prevention and Combatting of Corrupt Activities Act 2004 (PRECCA)
- Financial Intelligence Centre Act No. 38 of 2001 (FICA)

Signed at PRETORIA on this 20 day of AUGUST 2020.



Deponent – HR Heyneke

I Certify that the deponent has acknowledged that she/he knows and understands the contents of this Affidavit which was signed and sworn to before me at PRETORIA on this 20th day of AUGUST 2020, the regulations contained in Government Notice No. R35 dated the 14 March 1980 having been complied with.



COMMISSIONER OF OATHS

Full Name

Commissioner of Oaths ex Officio

Position held

Business Address

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