
AFFIDAVIT

I, the undersigned,

BEN THERON

do hereby make oath and state:

1. I am an adult male employed as Chief Operating Officer by the Organisation Undoing Tax Abuse ("OUTA") with business address 10th Floor, O'Keeffe & Swartz Building, 318 Oak Street, Ferndale, Randburg, Gauteng.
2. The contents of this affidavit fall within my personal knowledge, unless stated otherwise, and are in all aspects true and correct.

A MANDATE

3. The Complainant, OUTA is a proudly South African non-profit civil action organisation, comprising of and supported by people who are passionate about improving the prosperity of our nation. OUTA was

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established to challenge the abuse of authority with regards to taxpayers' money in South Africa.

B BACKGROUND

4. During the course of May 2017, OUTA gained access to the so-called GuptaLeaks. Upon further investigation, OUTA uncovered a series of irregularities, amongst others, the formation of a proposed joint venture ("JV") – Denel Asia. This JV was entered into between Denel SOC Ltd ("Denel") and VR Laser Asia ("VRL Asia"). The facts surrounding this particular deal will become more apparent in subsequent paragraphs. **"ANNEXURES SF2 – SF11"** referred to are sourced from the GuptaLeaks.
5. On or about 24 July 2015, Lugisani Daniel Mantsha ("Mantsha") was appointed as non-executive director and chairperson to the board of Denel SOC Ltd by the Minister of Public Enterprises, Lynne Brown as per **"ANNEXURE SF1"**. Subsequent to his appointment, Mantsha suspended Denel's Chief Executive Officer ("CEO"), Riaz Salojee, its Chief Financial Officer ("CFO"), Fikile Mhlontlo and its

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company secretary, Elizabeth Africa. No conclusive reasons were provided for this suspension.¹

C IMPROPER RELATIONSHIP: MANTSHA AND THE GUPTAS

6. During August 2015, Mantsha was flown to India, accompanied by Angoori Gupta, Rajesh Gupta, Arti Gupta, Sashank Singhala, Amankant Singhala, Salim Essa and Gysbert van den Berg. Attached hereto is an email chain, dated 3 August 2015 to 4 August 2015, marked "**ANNEXURE SF2**", which reflects confirmation of Mantsha's travel arrangements. Mantsha stayed at the ITC Maratha Hotel in Mumbai as reflected on the ITC tax invoice, dated 8 August 2015 and marked "**ANNEXURE SF3**". The invoice is also marked for SES Technologies Limited – a Gupta company.
7. Merely two months after his Oriental visit to India, Mantsha embarked on an Arabic excursion to Dubai – again at the Guptas' expense. A visa issued on 30 September 2015 is attached hereto and marked "**ANNEXURE SF4**". The significance of the visa, is that it had been obtained specifically for Mantsha's Dubai trip in October

¹ amaBhungane, "#GuptaLeak: How the Guptas screwed" Denel 10 June 2017.



2015. It should be noted that the visa's issuance was done within three weeks of Mantsha's initial visit to India.

9. On 30 September 2015, a booking for flight SA7163 was confirmed for departure from Dubai International Airport to OR Thambo on 6 October 2015, attached hereto and marked "**ANNEXURE SF5.1**". This booking was sent to Sahara Computers – a Gupta-owned company, as would be apparent from the email to which the invoice was attached, annexed hereto and marked "**ANNEXURE SF5.2**". It is rather odd that, although the invoice had been made out to Mantsha, it was forwarded to Ashu Gupta.
10. On or about 3 January 2016, accommodation for Mantsha was confirmed for his stay at the Oberoi Hotel in Dubai. This luxury accommodation included a personal chauffeur service that would have picked Mantsha upon arrival at approximately 19h20 of 3 January 2016. Attached hereto is an email chain from Ashu Chawla, CEO of Sahara Computers, confirming the latter and marked "**ANNEXURE SF6**".
11. It should be noted that, during this period of travelling, Mantsha served as Denel's Chairperson and non-executive director. There is

Handwritten signature and initials in the bottom right corner of the page.

no evidence suggesting that Mantsha was authorised to travel to Dubai, although it would seem that the trip was business related. The dealings that ensued between Denel and various Gupta entities, can be measuredly attributed to Mantsha's sinister relationship with the Gupta family.

12. To make matters worse, Matsha forwarded his municipal account for June 2015, attached hereto and marked "**ANNEXURE SF7**", to Ashu Gupta. As the municipal account is addressed to Matsha, there would be no audible reason that it forwarded to the Guptas. The only logical explanation for such ominous behaviour is that the Guptas would settle Mantsha's account – signifying a close relationship

D THE DENEL JOINT VENTURE

13. On or about 30 October 2015, Denel submitted a letter to the National Treasury in terms of the Public Finance Management Act 1 of 1999 ("the PFMA") proposing the formation of a joint venture ("JV") between Denel and VR Laser – subsequently known as Denel Asia. Denel stated that the rationale behind such JV, is to exploit business opportunities within the Asia Pacific defence market. The

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letter is attached hereto and marked “**ANNEXURE SF8**”, which was also obtained via the GuptaLeaks.

14. Prior to the engagement as referred to above, on or about 5 August 2015, negotiations for the JV commenced as a draft of the actual agreement was communicated from the Guptas’ attorneys, Pieter van der Merwe (“Van der Merwe”) to VR Laser and Tony Gupta as per “**ANNEXURES SF9.1 – SF9.7**” attached hereto. It is apparent from the various drafts that Denel Asia had been specifically established as a vehicle to facilitate the deal.

E CHRONOLOGY OF NEGOTIATIONS

VR LASER AND DENEL – AGREEMENT A

15. On 5 August 2015, Van der Merwe sent a document titled “*DENEL VR HONG KONG PARTNERSHIP AGREEMENT*” to amongst other, Tony Gupta. This document is presumably the first draft of a cooperation agreement between VR Laser Services (Pty) Ltd and Denel.

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16. In terms of clause 4.1 of the cooperation agreement, VR Laser shall *“advise and execute all functions in regard to fabrication, manufacturing and operational aspects.”* In pursuit of such operations, Denel shall, in turn, make available to the JV all products manufactured in South Africa (by Denel). Furthermore, both Denel and VR Laser would transfer technology, information and training to the JV prior to the commencement of operations.
17. It is important to note that, in terms of the JV, VR Laser is deemed a specialist in the defence industry – purportedly justifying its partnership with Denel. VR Laser’s alleged business connections and understanding of the Asia-Pacific defence market is one of the primary reasons why Denel entered into the JV.

VR LASER AND DENEL – AGREEMENT B

18. On 12 October 2015, an amended version of the JV was sent to Tony Gupta and others. There are no significant deviations from the initial draft, except for the fact VR Laser Asia Ltd is cited as a party. The latter is a subsidiary of VR Laser Services (Pty) Ltd which is registered in South Africa.

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19. It would seem that the reason for the inclusion of an Asia-based company would entail for less constraining procurement requirement.

VR LASER AND DENEL – AGREEMENT C

20. On 16 October 2015, Van der Merwe forwarded an amended version of the VR Laser Asia – Denel JV to Tony Gupta. In this amended version, provision is made for the conclusion and/or termination of agreements regarding intellectual property by the board of directors.
21. In light of the above, it is stated that Denel shall not alienate any of its intellectual property. The JV does not differentiate between intellectual property obtain before and after the establishment of the JV. In terms of clause 3.2.4, a quorum for the approval of shall be constituted by all directors. A 75% affirmative vote would then allow for the adoption of the resolution.
22. Notwithstanding the required quorum, both VR Laser and Denel's representatives in the JV are regarded as equal partners. This would render Denel's 51% control of the JV superfluous. Moreover, it is important to note that the board's authority to conclude agreements

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relating to intellectual property does not exclude alienation. Clause 4.1, as referred to in paragraph 20 above, does not prohibit VR Laser from alienating intellectual property. This limitation is only applicable to Denel's representatives on the JV board.

ANIL GUPTA AND ADANI ENTERPRISES – INVESTMENT SPV

23. On 28 October 2015 at 2h16 PM, Van der Merwe sent a draft of a cooperation agreement between Anil Gupta and Adani Investments. In terms of clause 1.2, the core business of this proposed JV *“will be that of an investment company, owning shares, and sourcing manufacturing capabilities”*. The parties further aim to agree that the JV be registered In India.
24. It should be noted that Anil Gupta is an associate of the Gupta family. Furthermore, in the email, it is stated that this JV is drafted in a similar fashion as that of the VR Laser – Denel JV.
25. Subsequent to the dispatch of the abovementioned JV, at 9h25 Pm on the same day Van der Merwe sent Tony Gupta a draft agreement between Denel Asia and a certain “Investment SPV”. This email raises suspicion as it made provision for an agreement with an entity that had not yet been established (Investment SPV). The

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reasonable conclusion that one can draw, is that the Investment SPV referred to in the email sent at 9h25 PM, is the entity envisioned in the first email sent at 2h16 PM.

26. More concerning is that the JV between Denel Asia and the Investment SPV's core business as per clause 1.2 is to *"provide defence products in India to various clients"*. This was exactly the same objective of the JV between Denel and VR Laser. As VR Laser allegedly possessed the necessary expertise in the Asia Pacific defence market, there would be no logical reason for Denel Asia to further contract with an additional party for the same services which VR Laser ought to provide to the JV.
27. Furthermore, clause 1.2 provides that *"Denel India shall not be entitled to offer the manufacturing of any of the products to any other party, without having offered it to ISPV..."* It would thus seem that Denel Asia had been specifically set up to benefit Gupta interests outside of South Africa.
28. In terms of clause 4.1 Denel Asia shall make all its products available to the JV under a licencing agreement with Denel SOC Ltd. It is unclear whether these products include the alienation of

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intellectual property or merely general licencing agreement(s) subject to the payment of royalties.

F THE DEPARTMENT OF PUBLIC ENTERPRISES

29. Denel stated that VR Laser Asia had approached them with a business proposition. As ominous as it may sound, Mantsha in his letter, proposed that Denel will hold a 51% of the issued share capital in the JV, while VR Laser Asia will hold 49%. It should be borne in mind that Mantsha's first Gupta-related trip took place in August 2015 – approximately two months before the proposition to the National Treasury was made. It would seem very likely that VR Laser's business proposition was made during this period.
30. On 23 November 2015, the Minister of Public Enterprises, Lynne Brown, responded to Denel's proposal for the formation of the JV. Brown requested Denel to provide her with an array of informative documentation in order to protect Denel's status as a proposed holding company. The letter further stated, *inter alia*, that issues such as conflict of interest should be adequately monitored. Attached hereto is Lynne Brown's letter, marked "**ANNEXURE SF10**".

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G VR LASER ASIA'S TIES TO THE GUPTAS

31. During the course of the so-called business propositions, VR Laser's shares were held by various Guptas-entities and individuals. At the time, JIC Mining Services (also known as Westdawn). held a 25% stake in VR Laser, while Salim Essa held 75%.
32. It should be noted that Duduzane Zuma (son of president Jacob Zuma) and Tony Gupta have shares in JIC Mining Services. This would in effect mean that VR Laser is controlled by the Guptas through JIC.

H STREAMLINING OF THE JV

33. Following the correspondence between Denel, National Treasury and the DPE, Mantsha submitted Denel's application to National Treasury for approval on 10 December 2015. The significance of this date is that it follows the controversial appointment of Des van Rooyen ("Van Rooyen") as Minister of Finance. It would seem that Mantsha was opportunistic, considering his involvement with the Guptas, by submitting the application to an individual who entered

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office under overwhelming controversy. Further investigation may prove vital in establishing Van Rooyen's role in the Denel Asia deal.

34. The JV was formally announced in January 2016, notwithstanding the lack of ministerial approval from both the DPE and National Treasury. The JV was heavily in favour of the Gupta family. It would seem clear that one of the primary reasons for the formation of the Denel Asia JV was to establish a vehicle for additional Gupta-linked entities to contract with it.

I MANTSHA'S JOINT REPORTING

35. In his capacity as Chairperson of Denel, Mantsha relayed confidential information he had received from the DPE (**ANNEXURE SF9**) to Ashu Gupta which the latter had requested in an email dated 24 November 2015, attached hereto and marked "**ANNEXURE SF11**". In an attempt to avoid raising suspicions, Mantsha forwarded the letter via an email address from his legal practice (info@lugisanimantshaattorneys.co.za).

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36. Considering the above, it appears that Mantsha had acted in the interest of both Denel and VR Laser. This constituted a gross conflict of interest.

J CONCLUSION

37. Considering the above, it seems that Mantsha abused his position as Denel's Chairperson and/or non-executive director to benefit the likes of the Gupta family. The relay of confidential state information guaranteed an advantage to the Guptas in the procurement of services and the formation of the JV. The Guptas' advantageous position can be directly attributed to Mantsha's personal involvement.
38. I therefore submit that Mantsha's conduct constitutes corruption in terms of part 1 of the Prevention of Combatting of Corrupt Activities Act 12 of 2004 and/or part 2 thereof, as referred to below. Furthermore, the divulgence of confidential state information is also in contravention of the Public Finance Management Act 1 of 1999, in particular – sections 50 to 55 thereof.

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39. Considering **ANNEXURES SF9.1 to SF9.7**, it should be noted that Mantsha confirmed in his letter to the National Treasury, dated 30 October 2015 (**Annexure SF8**) that *“Denel will not alienate its intellectual Property and technology...”*. The negotiations (and draft agreements), which did not expressly make provision for the transfer of Denel’s intellectual property, had commenced approximately two months before Mantsha’s confirmation to National Treasury. Mantsha thus represented to National Treasury that Denel did not have the intention to dispose of its intellectual assets. The agreement(s) do not provide a safeguard against possible alienation, as Denel Asia’s board is authorised to conclude agreements regarding intellectual property.

K LEGAL FRAMEWORK

40. Section 76 of the Companies Act 71 of 2008 (“the Act”) sets out the standards of directors’ conduct:

“(1) In this section, 'director' includes an alternate director, and-

(a) a prescribed officer; or

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- (b) *a person who is a member of a committee of a board of a company, or of the audit committee of a company, irrespective of whether or not the person is also a member of the company's board.*

(2) *A director of a company must-*

- (a) *not use the position of director, or any information obtained while acting in the capacity of a director-*
 - (i) *to gain an advantage for the director, or for another person other than the company or a wholly-owned subsidiary of the company; or*
 - (ii) *to knowingly cause harm to the company or a subsidiary of the company; and*
- (b) *communicate to the board at the earliest practicable opportunity any information that comes to the director's attention, unless the director-*
 - (i) *reasonably believes that the information is-*
 - (aa) *immaterial to the company; or*
 - (bb) *generally available to the public, or known to the other directors; or*
 - (ii) *is bound not to disclose that information by a legal or ethical obligation of confidentiality.*

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- (3) *Subject to subsections (4) and (5), a director of a company, when acting in that capacity, must exercise the powers and perform the functions of director-*
- (a) in good faith and for a proper purpose;*
 - (b) in the best interests of the company; and*
 - (c) with the degree of care, skill and diligence that may reasonably be expected of a person-*
 - (i) carrying out the same functions in relation to the company as those carried out by that director; and*
 - (ii) having the general knowledge, skill and experience of that director.*
- (4) *In respect of any particular matter arising in the exercise of the powers or the performance of the functions of director, a particular director of a company-*
- (a) will have satisfied the obligations of subsection (3) (b) and (c) if-*
 - (i) the director has taken reasonably diligent steps to become informed about the matter;*
 - (ii) either-*

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- (aa) *the director had no material personal financial interest in the subject matter of the decision, and had no reasonable basis to know that any related person had a personal financial interest in the matter; or*
 - (bb) *the director complied with the requirements of section 75 with respect to any interest contemplated in subparagraph (aa); and*
- (iii) *the director made a decision, or supported the decision of a committee or the board, with regard to that matter, and the director had a rational basis for believing, and did believe, that the decision was in the best interests of the company; and*
- (b) *is entitled to rely on-*
 - (i) *the performance by any of the persons-*
 - (aa) *referred to in subsection (5); or*
 - (bb) *to whom the board may reasonably have delegated, formally or informally by course of conduct, the authority or duty to perform one or more of the board's functions that are delegable under applicable law; and*

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- (ii) *any information, opinions, recommendations, reports or statements, including financial statements and other financial data, prepared or presented by any of the persons specified in subsection (5)."*

41. Section 213 of the Act states that:

- "(1) It is an offence to disclose any confidential information concerning the affairs of any person obtained-*
- (a) in carrying out any function in terms of this Act; or*
 - (b) as a result of initiating a complaint, or participating in any proceedings in terms of this Act."*

42. In terms of section 214 of the Act:

- "(1) A person is guilty of an offence if the person-*
- (a) is a party to the falsification of any accounting records of a company;*
 - (b) with a fraudulent purpose, knowingly provided false or misleading information in any circumstances in which this Act requires the person to provide information or give notice to another person;*

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- (c) *was knowingly a party to an act or omission by a company calculated to defraud a creditor or employee of the company, or a holder of the company's securities, or with another fraudulent purpose; or*
- (d) *is a party to the preparation, approval, dissemination or publication of a prospectus or a written statement contemplated in section 101, that contains an 'untrue statement' as defined and described in section 95."*

43. Any person convicted of an offence in terms of this Act, is liable in the case of a contravention of section 213 (1) or 214 (1), to a fine or to imprisonment for a period not exceeding 10 years, or to both a fine and imprisonment (section 216 of the Act).

44. The fiduciary duties and general responsibilities of an accounting authority in terms of the PFMA, are stipulated in section 50 and section 51:

"50(1) The accounting authority for a public entity must-

- a) exercise the duty of utmost care to ensure reasonable protection of the assets and records of the public entity;*

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- b) act with fidelity, honesty, integrity and in the best interests of the public entity in managing the financial affairs of the public entity;*
- c) on request, disclose to the executive authority responsible for that public entity or the legislature to which the public entity is accountable, all material facts, including those reasonably discoverable, which in any way may influence the decisions or actions of the executive authority or that legislature; and*
- d) seek, within the sphere of influence of that accounting authority, to prevent any prejudice to the financial interests of the state."*

"51(3) A member of an accounting authority must-

- (a) disclose to the accounting authority any direct or indirect personal or private business interest that that member or any spouse, partner or close family member may have in any matter before the accounting authority; and*

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(b) withdraw from the proceedings of the accounting authority when that matter is considered, unless the accounting authority decides that the member's direct or indirect interest in the matter is trivial or irrelevant."

45. "51(1) An accounting authority for a public entity-

(a) must ensure that that public entity has and maintains-

- (i) effective, efficient and transparent systems of financial and risk management and internal control;*
- (ii) a system of internal audit under the control and direction of an audit committee complying with and operating in accordance with regulations and instructions prescribed in terms of sections 76 and 77; and*
- (iii) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;*
- (iv) a system for properly evaluating all major capital projects prior to a final decision on the project;*

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- (b) *must take effective and appropriate steps to-*
 - (i) *collect all revenue due to the public entity concerned; and*
 - (ii) *prevent irregular expenditure, fruitless and wasteful expenditure, losses resulting from criminal conduct, and expenditure not complying with the operational policies of the public entity; and*
 - (iii) *manage available working capital efficiently and economically;*
- (c) *is responsible for the management, including the safeguarding, of the assets and for the management of the revenue, expenditure and liabilities of the public entity;*
- (d) *must comply with any tax, levy, duty, pension and audit commitments as required by legislation;*
- (e) *must take effective and appropriate disciplinary steps against any employee of the public entity who-*
 - (i) *contravenes or fails to comply with a provision of this Act;*

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(ii) *commits an act which undermines the financial management and internal control system of the public entity; or*

(iii) *makes or permits an irregular expenditure or a fruitless and wasteful expenditure;*

(h) *must comply, and ensure compliance by the public entity, with the provisions of this Act and any other legislation applicable to the public entity."*

46. In terms of section 86 of the PMFA:

"(2) An accounting authority is guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding five years, if that accounting authority wilfully or in a grossly negligent way fails to comply with a provision of section 50, 51 or 55."

CORRUPTION

47. We allege that Mantsha's conduct, as detailed above, constitutes contraventions of the following sections of POCA:

a. **Section 3** of the POCA, which states:

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"Any person who, directly or indirectly-

- (a) accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or*
- (b) gives or agrees or offers to give to any other person any gratification, whether for the benefit of that other person or for the benefit of another person, in order to act, personally or by influencing another person so to act, in a manner-*
 - (i) that amounts to the-*
 - (aa) illegal, dishonest, unauthorised, incomplete, or biased; or*
 - (bb) misuse or selling of information or material acquired in the course of the, exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation;*
 - (ii) that amounts to-*
 - (aa) the abuse of a position of authority;*
 - (bb) a breach of trust; or*

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- (cc) *the violation of a legal duty or a set of rules,*
- (iii) *designed to achieve an unjustified result; or*
- (iv) *that amounts to any other unauthorised or improper inducement to do or not to do anything, is guilty of the offence of corruption."*

b. **Section 4** of the POCA, which states:

"(1) Any-

- (a) *public officer who, directly or indirectly, accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or*
- (b) *person who, directly or indirectly, gives or agrees or offers to give any gratification to a public officer, whether for the benefit of that public officer or for the benefit of another person, in order to act, personally or by influencing another person so to act, in a manner-*
 - (i) *that amounts to the-*

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- (aa) *illegal, dishonest, unauthorised, incomplete, or biased; or*
- (bb) *misuse or selling of information or material acquired in the course of the, exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation;*
- (ii) *that amounts to-*
 - (aa) *the abuse of a position of authority;*
 - (bb) *a breach of trust; or*
 - (cc) *the violation of a legal duty or a set of rules;*
- (iii) *designed to achieve an unjustified result; or*
- (iv) *that amounts to any other unauthorised or improper inducement to do or not to do anything, is guilty of the offence of corrupt activities relating to public officers.*

- (2) *Without derogating from the generality of section 2 (4), 'to act' in subsection (1), includes-*

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- (a) *voting at any meeting of a public body;*
- (b) *performing or not adequately performing any official functions;*
- (c) *expediting, delaying, hindering or preventing the performance of an official act;*
- (d) *aiding, assisting or favouring any particular person in the transaction of any business with a public body;*
- (e) *aiding or assisting in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person in relation to the transaction of any business with a public body;*
- (f) *showing any favour or disfavour to any person in performing a function as a public officer;*
- (g) *diverting, for purposes unrelated to those for which they were intended, any property belonging to the state which such officer received by virtue of his or her position for purposes of administration, custody or for any other reason, to another person; or*

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- (h) *exerting any improper influence over the decision making of any person performing functions in a public body."*

c. **Section 7** of the POCA, which states:

"(1) Any-

- (a) *member of the legislative authority who, directly or indirectly, accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or*
- (b) *person who, directly or indirectly, gives or agrees or offers to give any gratification to a member of the legislative authority, whether for the benefit of that member or for the benefit of another person, in order to act, personally or by influencing another person so to act, in a manner-*
 - (i) *that amounts to the-*
 - (aa) *illegal, dishonest, unauthorised, incomplete, or biased; or*

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- (bb) *misuse or selling of information or material acquired in the course of the, exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation;*
- (ii) *that amounts to-*
 - (aa) *the abuse of a position of authority;*
 - (bb) *a breach of trust; or*
 - (cc) *the violation of a legal duty or a set of rules;*
- (iii) *designed to achieve an unjustified result; or*
- (iv) *that amounts to any other unauthorised or improper inducement to do or not to do anything,*

is guilty of the offence of corrupt activities relating to members of the legislative authority.

- (2) *Without derogating from the generality of section 2 (4), 'to act' in subsection (1) includes-*

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- (a) *absenting himself or herself from;*
- (b) *voting at any meeting of;*
- (c) *aiding or assisting in procuring or preventing the passing of any vote in;*
- (d) *exerting any improper influence over the decision making of any person performing his or her functions as a member of; or*
- (e) *influencing in any way, the election, designation or appointment of any functionary to be elected, designated or appointed by, the legislative authority of which he or she is a member or of any committee or joint committee of that legislative authority."*

d. **Section 21** of the POCA, which states:

"Any person who-

- (a) *attempts;*
- (b) *conspires with any other person; or*

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- (c) *aids, abets, induces, incites, instigates, instructs, commands, counsels or procures another person, to commit an offence in terms of this Act,*

is guilty of an offence."

e. **Section 34 of the POCA**, which states:

"(1) Any person who holds a position of authority and who knows or ought reasonably to have known or suspected that any other person has committed-

- (a) *an offence under Part 1, 2, 3 or 4, or section 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2; or*
- (b) *the offence of theft, fraud, extortion, forgery or uttering a forged document, involving an amount of R100 000 or more;*

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must report such knowledge or suspicion or cause such knowledge or suspicion to be reported to the police official in the Directorate for Priority Crime Investigation referred to in section 17C of the South African Police Service Act, 1995, (Act 68 of 1995)."

48. In terms of **Section 26** of POCA:

"(1) Any person who is convicted of an offence referred to in-

(a) Part 1, 2, 3 or 4, or section 18 of Chapter 2, is liable-

(i) in the case of a sentence to be imposed by a High Court, to a fine or to imprisonment up to a period for imprisonment for life;

(ii) in the case of a sentence to be imposed by a regional court, to a fine or to imprisonment for a period not exceeding 18 years; or

(iii) in the case of a sentence to be imposed by a magistrate's court, to a fine or to imprisonment for a period not exceeding five years.

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(3) *In addition to any fine a court may impose in terms of subsection (1) or (2), the court may impose a fine equal to five times the value of the gratification involved in the offence."*

FRAUD

49. Fraud is the unlawful and intentional making of a misrepresentation which causes actual or potentially prejudicial to another.

50. Therefore, based on the contents of this affidavit, I submit that the elements of criminal activities such as, but not limited to, fraud and corruption be thoroughly investigated by the South African Police Service and other relevant law enforcement authorities.

SIGNED AT Randburg ON THIS 30th DAY OF
August 2017.



DEPONENT

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
RANDBURG ON THIS 30th DAY OF
AUGUST 2017, THE REGULATIONS CONTAINED IN
GOVERNMENT NOTICE NO. R35 DATED THE 14 MARCH 1980
HAVING BEEN COMPLIED WITH.



COMMISSIONER OF OATHS

FULL NAME:

POSITION HELD:

BUSINESS ADDRESS:

ANDREA KORFF
PRAKTISERENDE PROKUREUR/PRACTISING ATTORNEY RSA
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