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Your Reference:
Mr Lewis

CORRUPTION WATCH (RF) NPC

FOR ATTENTION: MR DAVID LEWIS

PER E-MAIL: info@corruptionwatch.org.za

10 March 2017

Dear Sirs,

RE: - DEFAMATION OF CASH PAYMASTER SERVICES (PTY) LTD

1. We are instructed by Cash Paymaster Services (Pty) Ltd ("our client") that your Mr David Lewis, as the head of and on behalf of Corruption Watch, published the statements contained in the transcripts of the broadcasts attached hereto of and concerning our client ("the statements"), which are now permanently available on the internet and will remain accessible for the foreseeable future.
2. The statements, having emanated from as reputable a person and organisation as yourselves, carry great weight with the public. The statements would cause any reasonable viewer or listener to believe that our client has been engaged in corruption with government to advance its interests in relation to a contract (and its extension) to distribute social grants to vulnerable people in our society. The statements are profoundly damaging of our client's reputation and dignity as they impute criminal conduct of considerable scale and depravity to our client.
3. When viewed in context the statements bear the following direct meanings or innuendos:
 - 3.1 That our client was involved in corrupt activities in procuring the contract to pay social grants to social grant beneficiaries on behalf of the South African Social Services agency.

DIRECTORS: Harold Smit; Rikesh Sewgoolam; Johannes Engelbrecht; Tiaan Jonker (Chairman);
Arilla du Plessis; Bouwer van Niekerk; Jacques Marais (Managing Director); Rachelle Freed; Ravika Sukdeo
SENIOR ASSOCIATES: Schalk Pienaar; Peto Milton
ASSOCIATES: Kris Harmse; Megan Rosseau; Loni Supkaran; Marnelize Olivier
PROFESSIONAL ASSISTANTS: Amy Parker
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IN ASSOCIATION WITH: Schoerie & Sewgoolam Inc – Pietermaritzburg

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- 3.2 That in 2008 our client was implicated in a corrupt approach to the head of the bid-adjudication committee for this contract, Advocate Norman Arendse SC.
 - 3.3 That the Constitutional Court had implied in its judgement on the subject of the award of the contract to pay social grants that our client had been engaged in corruption.
 - 3.4 That the present crisis regarding the extension of that contract has been corruptly set up to suit our client.
 4. Our client notes from your company's memorandum of incorporation that one of its objects is "*to undertake activities aimed at the combating of corruption in all forms in South Africa in order to ensure integrity and accountability in both the public and private sector in the conduct of their functions and operations*". Our client considers integrity and accountability to be lacking from the statements made by you. Another of your company's objects is to "*publicise complaints that are found to have substance, where appropriate*". There is no substance to the statements and it is inappropriate to ventilate, from a position of such moral authority, inflammatory and damaging allegations.
 5. Our client's staff are on the ground in some eleven thousand branches throughout the country. One of the many damaging consequences of associating our client with corruption is to expose its staff to hostility in the very areas where it delivers its services. Your conduct in this regard, given the absence of any sound foundation for the statements, is irresponsible and creates the risk of social unrest.
 6. You will know that the Constitutional Court did not find any corruption on the part of our client in the procuring of the original award of the social grants payment contract. Yet you slyly suggest that the Court implied it. If there was a basis for such a finding the Constitutional Court would no doubt have made it. The illegality which the Constitutional Court found to exist had nothing to do with corruption. To refer to the contract as having been awarded illegally as if that illegality were corruption is misleading.
 7. As for your reference to Advocate Arendse SC, he had apparently been approached by Gideon Sam in 2008 with a view to engage him in some corrupt activity. Mr Sam has never had any relationship to our client. Advocate Arendse SC addressed a letter to our client reporting Mr Sam's approach and our client, through our offices, denied any knowledge or involvement. Advocate Arendse SC accepted that our client had nothing to do with Mr Sam's approach. If there had been any substance to the complaint it would obviously have

disqualified our client from participating in the bid. Our client had at the time, through our offices, asked Advocate Arendse SC for further particulars of any of our client's employees allegedly involved, and none were implicated. Your attempts to link the unsubstantiated allegations of the events of nine years ago to the current situation is irrational and illogical. The current crisis has in no way been engineered by our client.

8. We have therefore been instructed to demand that you issue a public statement in which you retract all allegations of corruption against our client, and that you do so by no later than next week Tuesday.
9. All of our client's rights are reserved


SMIT SEWGOOLAM INC.

per: O.Z. JONKER

Attachments:

Transcript of interview with Business Day aired on 7 March 2017

Transcript of interview with Radio 702 aired on 3 February 2017

BUSINESS DAY TV: HEADS SHOULD ROLL OVER SASSA GRANTS

DEBACLE - LEWIS

Corruption Watch executive director David Lewis tells us why political heads should roll over the Department of Social Development grants debacle

BUSINESS DAY TV (“BDTV”): Although there are increasing calls for Social Development Minister Bathabile Dlamini to resign or be fired for handling of the pending payments crisis. It was with just under four weeks until the contract to distribute social grants expires while it's been reported that the Social Security Agency has struck a deal with Cash Paymaster Services (CPS), the contract still has to be agreed.

And it's a contract that's already been declared illegal by the Constitutional Court. Joining us with his take is David Lewis, Executive Director of Corruption Watch. Thanks so much David for your time today.

So this seemingly a very carefully orchestrated case of corruption and irregularity to hit South Africa at the expense of the most vulnerable in our society, yet Serge Belamant CEO of Net1 today saying that they expect the Sassa deal to be signed this week. Are you surprised?

David Lewis (“DL”): No, I mean I think you know from inception this whole arrangement was set up to favour CPS and this is what has happened now. I mean, there is no alternative in the timeframes left for any other service provider to provide these grants and the consequences of not providing them has got to be unimaginable. Even to the likes of Bathabile Dlamini, there is no way socially but maybe, you know, you would at least expect them to believe at least politically that they cannot pay these grants.

BDTV: You're quoted as saying this is arguably the most serious scandal to emerge in democratic South Africa. David, why has it been allowed to get to this stage if it has been a deliberate and orchestrated move? Why have the authorities not moved in sooner?

DL: While I think because there's a lot at stake. From inception this contract has been surrounded by a very ugly smell. I mean before the contract was even awarded, Norman Arendse, the Cape Town senior counsel who was then head of the adjudication committee reported I believe under oath that he had been offered a bribe and a very blank cheque by Gideon Sam, purporting to represent CPS, and you know, the Constitutional Court came close to saying there was corruption although it couldn't find corruption.

And you know, now there is this thing. How do you explain this? It's either incompetence and a lack of care on a sort of world class of a world class dimension or else it suits somebody. So what else can you say, you plead guilty to one or the other, either way you know you should go...

BDTV: Yes, be held accountable. We had Themba Godi, Scopa chairman saying he believed the looming crisis was a manufactured emergency. Minister Dlamini saying she is still to confirm whether she is going to be appearing before Parliament's standing committee tomorrow. Why don't we have the right mechanisms in place to ensure due process and accountability?

DL: We do have the right mechanisms in place. We have you know all the right mechanisms in place. We have, you know, it's a bit like the Minister of Communications and I think like the minister of social development, they are protected from such so high up that all that can get at them are the courts and that's why the mechanisms don't work effectively. You know you'd expect at least her to be fired in a case like this. I can't think of too many governments in the world in which she would have remained in office. And so the only conclusion that you can draw is that the person who is capable and has the power to fire her has some reason not to fire her. Not least of which is that she and her, the part of the ANC that she apparently commands, is his most, the president's most loyal support base.

His most loyal voters of course are the 17-million people who are getting the social grants. So you know I don't think this is entirely secure... should feel entirely secure doing what has been done. But if he doesn't fire her it is like really sticking a middle finger up at those 17-million people who must have been caused the most extraordinary anxiety over the last several months.

BDTV: We all have small "nyana" skeletons David , but if there is an agreement that has been drawn up ready to be signed, does the Constitutional Court need to have sight of that agreement, does the National Treasury need to see it before it is actually affected?

DL: I'm speaking here as a sort of 'barefoot lawyer' so don't take this kind of entirely at face value, but I don't think the Constitutional Court could. The Constitutional Court could the Constitutional Court only has jurisdiction over this contract or potential jurisdiction until 31 March, then there's a new contract and if that contract were to be challenged, I think but there may be other opinions, you have to start again in the high court. And there is no way that as far as I can see that this can be a legal contract. I mean I think there is some thought that the Treasury could sanitise the thing. I'm not sure whether that's true or not because the

Treasury would arguably then just be replacing the illegal Department of Social Development with an illegal Treasury so you know, I think they're just have to take their chances.

And you know what they've always been able to rely on, whether it's from anybody raging from Corruption Watch to the Constitutional Court, that our first thought is for the beneficiaries so whatever we do nobody is going to prevent them from being paid their contract. They've always been able to rely on that.

BDTV: Ja, what Serge Belamant has highlighted that when it comes to the contract that they've now got in place, new commercial terms going forward being agreed to, also that they're going to, on behalf of Sassa, let them take in-house a number of technical processes which you know CPS currently performs. What do you make of this solution, just a makeshift solution to appease ah appease at this moment?

DL: Ja I mean, I think it's just a sop really. You know, you know as I say I don't you know CPS have been a very controversial vendor, not you know least with the way in which they got their contract, but then particularly for the that ancillary services that they've provided at that point of of payment. But you know, they're competent technically competent company and so you know let them do what they have to do to pay the contract. But this is this is not the end of the story, I mean there is no question about it.

BDTV: We'll have to have another conversation on another day...

RADIO 702 MIDDAY REPORT – INTERVIEW WITH DAVID LEWIS REGARDING SASSA CASH PAYMASTER SERVICES TENDER

RADIO 702 (“702”): In Parliament this week a comment by the Social Development Ministry that is going to go to the Constitutional Court to ask for permission to continue with the tender with Cash Paymaster Services for another year, despite the fact judges have found that that tender was awarded illegally. The ministry says it needs more time to manage the changeover in the way in which social grants are paid to millions of people who receive them and depend on them.

Watching it all very closely, the head of Corruption Watch’s executive director David Lewis is on the line from Johannesburg. David afternoon to you what do you make of what’s happening here.

David Lewis (“DL”): Well I, you know I think this is one of the most outrageous instances of either corruption or incompetence that we’ve seen in government. I, I have absolutely no doubt that the Constitutional Court will extend the, the contract to, to Net1 CPS and the reason why they will do so is because unlike the Department of Social Development or its minister or SASSA, they care about the beneficiaries and that’s why they extended an illegal and in, and invalid contract by two years in the first place, because they were mindful of not prejudicing the poorest seventeen million South Africans and you’ve got to, you know, what happened in the two years is that the Department of Social Development and SASSA have done absolutely nothing to give effect to the Con Court’s decision, which is really a brazen finger up at the Con Court and they’re now approaching them with a month to go and of course the Con Court has to, has to extend this, but you have to ask themself, yourself why they’ve done nothing and as I’ve said at the beginning, its either corruption or incompetence of the most egregious sort and err you know, corruption is not lightly alleged in this case. Right at the beginning of the process before they were awarded the contract, a senior counsel on the bids committee revealed that he had been offered a huge bribe to influence the outcome of the err, and nothing was done about that and as far as we know it was never investigated. The Americans have investigated this for, for corruption, because Net1 CPS is listed in the United States, but have had to, but the investigation although still open has run in to the sand, because apparently the Hawks did not cooperate with the American investigation. The Hawks, after pressure from us, mounted a sort of desultory investigation we are told, but we have never been, it is despite our entreaties, they have never communicated to us the outcome of the [investigations] and I think South Africans should remember that the minister of Social Development is the one who famously said that we

shouldn't point fingers at corruption, because we all have little "nyanas" skeletons in our cupboard. Well you know, we're entitled to ask whether this is the skeleton in her cupboard and if indeed it is, it is no little skeleton and it will out, but this is really coming at the same time as the, as the mental health fiasco in Gauteng. You just have to conclude that these people just do not care about the most vulnerable people in our society, because the most vulnerable are also the weakest and this is what the consequence is. I can't imagine what anxiety this has been causing in the, in the rural areas where people rely on these grants.

702: David I don't know if you've seen this report. It's literally just been published by the amaBhungane Centre for Investigative Journalism. They suggest, and I just read the top lines of their report to you. They say the Social Development Minister, Bathabile Dlamini, faced a revolt from social grant officials this week over her alleged meddling in their efforts to present the social grants payment plan to Parliament and they say that Dlamini tried to bigfoot the SA Social Security Agency with the last minute plan to boost the role of private contractors, particularly that of Cash Paymaster Services, and they go on to say that she actually wanted Cash Paymaster Services' role to keep going till 2019. That would fly in the face of the Constitutional Court of course.

DL: Well, well you know, Cash Paymaster Services are on record, at least in the Media, as reported in the Media saying that, this, that their contract should be extended by more than a year and this is all completely predictable and I, I, I think that the amaBhungane report that you just told me about is absolutely credible. The, as I say, this is consistent with corruption that has been alleged from before the contract was even awarded and the fact that they simply ignored the Constitutional Court's case, Constitutional Court's decision, I wonder if it's not ground for a, for a contempt of court finding, but also it should be remembered that the Constitutional Court held that a body that has entered into an invalid contract is not entitled to profit from that contract and we are going to in look at the legal recourse we have in addition to the review that we are already conducting in the court over 300 million extra rand that was just paid by SASSA to CPS for which we can find no explanation. We are going to investigate what legal recourse there is to ensure that no one profits from, from this continuation at nauseam of this illegal and invalid contract, but extended it must be, because as I said, our first concern and every right-thinking South African's first concern is for the beneficiaries. I'm just afraid that it's not concerned apparently shared by the Minister and the Department of Social Development or, or SASSA.