

AFFIDAVIT

I, the undersigned,

NHLAMULO MVELASE

do hereby make oath and say that:

1. I am an adult male with a South African Identity Number 890803 5998 083.
2. I am a junior attorney in the employ of Corruption Watch (RF) NPC.
3. My office is situated at 87 De Korte Street, Braamfontein, Johannesburg, 2017.
4. My contact telephone number is 011 242 3900 and my mobile telephone number is 082 928 1657.
5. Save where I have stated otherwise or where it appears contrary from the context, all facts herein fall within my personal knowledge or have been obtained from records of the Company to which I have had access and are to the best of my knowledge both true and correct.

SCOPE OF THE AFFIDAVIT

6. The affidavit provides the background into allegations of corruption which were made against an employee of the South African Revenue Services ("SARS"), Ms Kelly-Ann Elskie ("Elskie") who is the girlfriend of Mr Jonas Makwakwa, another employee of SARS who has been accused by the FIC of corruption, fraud and money laundering.
7. The allegations of corruption against Elskie emanate primarily from an article published by the amaBhungane centre for investigative journalism in the *Sunday Times* on 11 September 2016, a copy of which is attached as Annexure "A". A further article by Marianne Tham appeared in the *Daily Maverick* also on 11 September 2016 and attached as Annexure "B".

8. Both articles refer to a report produced by the Financial Intelligence Centre (the "FIC") which should be obtained from the FIC or from SARS in order to further this investigation.
9. In this regard, according to media reports it was alleged that Elskie was involved in or facilitated corrupt activities and that suspicious and unusual cash deposits into her account require investigation to determine if these cash deposits and payments are proceeds of crime and/or money laundering in order to institute appropriate criminal justice action.
10. This affidavit aims to set out the scope of the allegations as best as possible in reference to the attached media articles.

ALLEGATIONS

11. Between 22 and 24 December 2015, three cash deposits totaling R450 200.00 were deposited into Elskie's personal bank account.
12. The cash deposits were structured into two payments of R160 000.00 each and one payment of R130 200.00. The deposits were made over three consecutive days into three different branches of the same bank, all located within an approximate 10km radius. Elskie was the depositor for two of the three cash deposits.
13. Elskie used these funds together with funds from the sale of a previously owned property to purchase a new property.
14. The FIC found that the source of the funds was unknown and that the value of the cash deposits was suspicious and unusual considering the financial profile of Elskie.
15. The FIC therefore indicated that the above payments should be investigated to determine:

- 15.1. Whether the funds received constituted payments of the proceeds of crime arising from corrupt activities by Elskie;
- 15.2. The implication of those corrupt activities on SARS; and
- 15.3. Whether the aforementioned conduct, concealment and disguising of the true source of these funds constitute acts of money laundering as defined in Section 1 of the *Prevention of Organized Crime Act* 121 of 1998.

THE CRIMINAL COMPLAINT

I hereby request the South African Police Service to conduct an investigation into this matter as soon as possible. This matter is very urgent as several individuals and companies implicated in this matter could hide or destroy evidence which is vital to this investigation.

Internal disciplinary enquiries into Elskie have been initiated by SARS however this does not prevent a concurrent investigation into the allegations of criminal conduct by Elskie.

In summary, the investigation should be into whether:

- 1.1. The funds which Elskie received constituted payments of the proceeds of crime arising from corrupt activity on the part of Elskie and other individuals and entities involved in the transactions and accordingly whether Elskie and other individuals have committed the crime of corruption as defined in the *Prevention and Combatting of Corrupt Activities Act*, 12 of 2004;
- 1.2. Certain conduct by Elskie and other individuals and entities in concealing and disguising the true source of some of the funds paid to Elskie constitute acts of money laundering as defined in Section 1 of the *Prevention of Organised Crime Act* 21 of 1999.

The personal particulars of **Kelly-Ann Elskie** are:

Identity number: 8805160057083

Residential address: 986 Mossie Street, Silverton, 0184

Residential telephone number: 012 331 2632

Work telephone number: 012 422 6289

Mobile telephone number: 082 952 2508

NHLAMULO MVELASE

I certify that:

- I. the Deponent acknowledged to me that:
 - A. he knows and understands the contents of this declaration;
 - B. he has no objection to taking the prescribed oath;
 - C. he considers the prescribed oath to be binding on his conscience.
- II. the Deponent thereafter uttered the words, "I swear that the contents of this declaration are true, so help me God".
- III. the Deponent signed this declaration in my presence at on
8 December 2016.

COMMISSIONER OF OATHS

12/5/2016

SUNDAY TIMES - Revenue service's No 2 probed for R1.2m in 'suspicious' cash deposits

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FROM 13 NOVEMBER 2016

SUNDAY TIMES NEWS BY SUSAN COMRIE, SAM SOLE AND CRAIG MCKUNE, 2016-09-11

Revenue service's No 2 probed for R1.2m in 'suspicious' cash deposits



SARS branch. File photo.
Image Gallo Images/Foto24/Theana Calitz

he second-in-command at the South African Revenue Service has been flagged for "suspicious and unusual" cash payments into his bank account, with a report recommending an investigation to determine if the payments are "proceeds of crime arising from

<http://www.timeslive.co.za/sundaytimes/stnews/2016/09/11/Revenue-service%E2%80%99s-No-2-probed-for-R1.2m-in-%E2%80%99suspicious%E2%80%99...> 1/5

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The report, compiled by a banking regulator, has been handed over to SARS commissioner Tom Moyane.

It alleges that Jonas Makwakwa, the chief officer: business and individual taxes, received unexplained cash deposits and bank transfers into his FNB account totalling R1.2-million between 2010 and January this year.

Investigators also pointed to three cash deposits, totalling R450,200, to Makwakwa's girlfriend's Absa account just before Christmas 2015.

The report, which is only preliminary, relies on bank records for 11 different bank accounts as well as camera footage from banks where the cash deposits were made.

SARS spokesman Sandile Memela declined to comment, but sources said that although the report had been given to Moyane in May, Makwakwa and his girlfriend, Kelly-Ann Elskie, who is also a SARS employee, had remained in their positions.

When contacted on Friday, Makwakwa and Elskie both said the matter was "sub judice" and declined to comment.

Makwakwa has become a powerful figure at SARS. A taxman for 20 years, he shot to prominence after Moyane became a commissioner in late 2014.

Since then, Makwakwa has acted as commissioner when Moyane was away, and has been put in charge of SARS's key revenue-generating unit, the Large Business Centre, which has oversight of large corporations and wealthy individuals.

It is not clear what triggered the investigation into Makwakwa and Elskie, but it is understood that banking regulators became suspicious because of the frequent deposits of large amounts of cash.

When investigators delved into Makwakwa's FNB bank account they identified cash deposits of R785,130 made between 2010 and 2016, most of these - 48 deposits totalling R726,400 - made between 2014 and 2015.

On one occasion Makwakwa was allegedly filmed depositing R68,000 in cash into his own account; in another 34 instances (totalling R606,200) investigators said: "information suggests that [Makwakwa] conducted these cash deposits in person".

There is also a question mark about a September 2014 credit of R147,850.65 on Makwakwa's account after he exchanged \$13,500.

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FROM 13 NOVEMBER 2016

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by [Makwakwa]"

Although the investigation is still at an early stage, the trail of payments appears to have also led investigators to an Absa account, a car and a property in Elskie's name.

She is believed to be Makwakwa's common-law wife and the mother of two of his children.

In particular, investigators raised questions about three large cash deposits - two of R160,000 each and one of R130,200 - that appeared to be inconsistent with Elskie's profile as a mid-level employee in SARS's legal department.

The deposits were made on December 22, 23 and 24 last year at different banks in a 10km radius. Cameras are said to have filmed Elskie making two of the deposits.

Neither Makwakwa nor Elskie has given an explanation for these payments - the report merely records them as "suspicious and unusual" and recommends that further investigation be done.

Investigators also raised concerns about R480,000 that was transferred via EFT into Makwakwa's bank account in three tranches in April and May last year - almost half of which appears to have been used to buy a Mercedes for Elskie.

Through a complex network of bank accounts and companies, investigators traced these payments back to a February 2015 payment of R17.87-million by the Department of Water and Sanitation in favour of a debt-collection company called New Integrated Credit Solutions.

It is not clear what the connection is between a chain of six different companies that have been identified in the report, which include several debt-collection companies and a company called Biz Fire Worx, where Makwakwa was once a director. It sells fire safety equipment.

In most instances, as soon as payments arrived in one bank account, the money was immediately transferred to the next, with a slice being deducted by each company in the chain. On the day after New Integrated Credit Solutions received its payment from the department, it transferred precisely 25% - R4,468,239.28 - to a company called Mahube Payment Solutions.

Asked about this, New Integrated Credit Solutions chairman Baker Maseko said the payment would most likely have been as part of its subcontracting arrangement with Mahube to do data analysis on debt data. He said although SARS was a former client, it had not done business with the tax entity for four or five years.

Mahube has an indirect link with SARS through the company's sole director, Patrick Monyeki, who is said to be a close friend of Moyane.

Monyeki, an information technology veteran, has garnered controversy in relation to two major government IT contracts.

In 2013, it was reported that Monyeki, as a technical adviser, had allegedly played a crucial role in the decision to award a lucrative contract for the distribution of South African Social Security Agency grants to a company called Cash Paymaster Services. At the time, the bid committee was chaired by Moyane. Monyeki did not respond to the claims when they

More recently it emerged that Monyeke has an interest in the company that was awarded a controversial R378-million contract to supply an "inmate management system" to the Department of Correctional Services.

The contract, with Integratron Integrated Solutions, is the subject of litigation and wrangling with the National Treasury, which wants it cancelled.

Monyeki's attorney, Donovan Reddy of BBM Law, responded to questions: "Your enquiries relate to transactions that occurred almost 18 months ago. Our client does not readily have this information to hand. The timeframe imposed on our client to reply is wholly insufficient... Furthermore, our client is also not able to respond fully and fruitfully until a proper disclosure of the documents you mention and rely on, has been made."

Several other companies were involved in the chain of payments. The final payment in the chain, of R600,000, appears to have been made to Biz Fire Worx. In the two months after Biz Fire Worx received this payment, the company made three large payments into Makwakwa's FNB account, totalling R480,000. One of the company's directors, Lokisane Molea, confirmed receiving a R600,000 payment, but said this was a loan.

Asked about the R480,000 on-payment to Makwakwa, Molea claimed he had used this new loan to repay a series of old loans he had taken from Makwakwa, starting in 2009.

Less than a week after receiving this payment, in May 2015, Makwakwa appears to have used R200,000 to buy a Mercedes-Benz C220 for Elskie.

In February, amaBhungane reported that SARS insiders were concerned that Moyane and Makwakwa had overly-centralised influence over tax settlement negotiations worth billions of rands. Moyane, Makwakwa and SARS denied this and launched a R4-million defamation suit which amaBhungane is defending.



The amaBhungane Centre for Investigative Journalism, an independent non-profit, produced this story.

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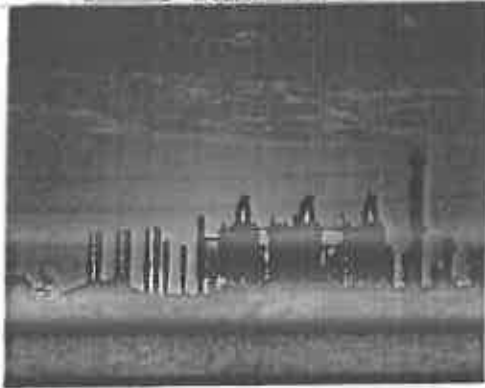
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DAILY MAVERICK

SOUTH AFRICA

House of Cards: SARS's 9/11 as pack comes tumbling down in probe of suspicious deposits

- MARIANNE THAMM
SOUTH AFRICA
11 SEP 2016 06:22 (SOUTH AFRICA)



SARS Commissioner Tom Moyane and Hawks head Lieutenant-General Mthandazo Ntsemeza have known for more than three months about the alleged

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criminal behaviour of Jonas Makwakwa, the second most senior member of the SARS executive, who has reportedly been caught by ATM cameras feeding wads of cash into his personal account as well as receiving other deposits amounting to at least R1.2-million. Daily Maverick is in possession of a report by a banking regulator that suggests these "suspicious and unusual cash deposits" into the personal accounts of Makwakwa and his girlfriend Kelly-Ann Elskie be investigated. Yet the Hawks claim this is an "internal matter" at SARS. By
MARIANNE THAMM.

The confidential report states that Makwakwa and his girlfriend Elskie, the mother of at least two of his children and also a SARS employee, might be involved in or facilitating corrupt activities and may be guilty of living off the proceeds of crime or be involved in money laundering and that this be investigated "in order to institute appropriate criminal justice action".

Makwakwa, Moyane's perceived "hatchet man" at SARS, had been placed in control of the Large Business Centre – a key revenue division of SARS that deals with high-net worth individuals and corporate tax – as part of the commissioner's move to restructure the revenue service. It is a mission Treasury and Finance Minister Pravin Gordhan have repeatedly asked Moyane to freeze, instructions which he has repeatedly ignored.

However, revelations in the report that Makwakwa is linked to several suspicious and possibly highly illegal financial transactions might just prove to be Moyane's personal 9/11.

The bombshell hit on 11 September when the amaBhungane centre for Investigative Journalism revealed in a report in the *Sunday Times* that a banking regulator had picked up, some time ago, several suspicious bank transactions related to Makwakwa and Elskie.

In a memo marked "confidential" the regulator suggested that these transactions – 75 deposits between 1 March 2010 and 31 January 2016 and totalling R785,130.00, were made into Makwakwa's account, of which 48 were cash deposits amounting to R726,400.00 and deposited between 2014 and 2015.

"The volume and value of cash deposits are highly unusual as MJM [Makwakwa] is permanently employed. These aforementioned cash deposits should be investigated to

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determine whether these funds ... received by this SARS employee constitute payments of proceeds of crime arising from corrupt activities as defined in the Prevention and Combatting of Corrupt Activities Act 12 of 2004, in light of the position of authority held by MJM. The exchange of foreign currency should be investigated to establish if there were exchange control contraventions in this transaction," the statement from the banking regulator reads.

SUSPICIOUS AND UNUSUAL CASH DEPOSITS AND PAYMENTS INTO MJM'S ACCOUNT

MJM's personal bank account⁴ is the primary account used to receive and disburse funds. Credits into this account have increased yearly⁵ from R1,358,817.01 in 2010 to R3,418,925.43 in 2015 (approximately 152%). Likewise, MJM's payments have grown over this period, creating a dependency on suspicious cash deposits and payments to maintain his current standard of living. These payments and cash deposits are of concern as they originate from unknown sources and undetermined legal purpose.

"MJM's [Mashudu Jonas Makwakwa's] personal bank account is the primary account used to receive and disburse funds. Credits into this account have increased yearly from R1,358,817.01 in 2010 to R3,418,925.24 in 2015 (approximately 15 %). Likewise, MJM's payments have grown over this period, creating a dependency on suspicious cash deposits and payments to maintain his current standard of living. These payments and cash deposits are of concern as they originate from unknown sources and undetermined legal purpose," reads the report.

It is clear from the report that while the Hawks were hounding Gordhan in a very high profile and public manner, Ntlemeza was more than aware of the evidence against Makwakwa and Elskie that had been collected – and did nothing. Some of the evidence was from cameras installed at various ATMs.

Moyane is believed to have signed for the receipt of the full report on Makwakwa on 17 May. Moyane is also believed to have met with Ntlemeza on 29 August 2016. On 31

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August Makwakwa was presented with a written notice of SARS's intention to suspend him. He was given seven days to present reasons why he should not be suspended. He still remains in his position and is the second most powerful individual at SARS.

Insiders say the fact that Makwakwa has not yet been suspended presents the danger that "he can easily interfere with any investigation into his affairs" and is "the only official on the SARS Exco with some knowledge of tax or the institution itself".

Hawks spokesman Brigadier Hangwani Mulaudzi on Sunday told *Daily Maverick* that "we are not investigating the matter. I assume it is an internal matter and for further details please contact SARS".

SARS had not responded to questions from the *Daily Maverick* at the time of writing.

DA Shadow Minister of Finance, David Maynier, said Moyane had been questioned during a parliamentary standing committee on finance meeting on 23 August about the Makwakwa matter but had been "evasive and simply stated that he would not 'comment on ongoing investigations'".

Follow-up questions, said Maynier, had been referred to senior revenue service officials who "were equally evasive" and repeated that they had no "comment to make on current investigations into individuals or companies".

The banking regulator noted that other "irregular and ad hoc payments from SARS were credited to MJM's personal bank account. The value of these payments for the past two (2) financial years (2014-2015) amounted to R334,459.05 as compared to R83,635.30 between 2012 and 2013."

These payments, said the regulator, "should be investigated to determine whether there were any misrepresentations or fraud on the part of MJM that resulted in SARS making these payments".

According to the regulator, Elskie made three cash deposits between 22 and 24 December 2015 totalling R450,200.00. The deposits were structured into two payments of R160,000 each and one of R130,200.

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"The deposits were made over three consecutive days into three different branches of the same bank, all located within an approximate 10km radius."

The sources of these funds were unknown and the value "suspicious and unusual considering the financial profile of KE".

She allegedly used these proceeds as well as the proceeds from another property to buy new property. The transactions should be investigated, said the banking regulator, to determine "whether the aforementioned conduct, concealment and disguising of the true source of these funds constitute acts of money laundering".

The banking regulator also uncovered a series of transactions it has labelled "suspicious and unusual payments" and relating to the Department of Water Affairs and Forestry and a deposit of R17,872,957.13 into the account of a company, New Integrated Credit Solutions – a debt collection company formerly contracted to SARS.

This total was then moved in a series of payments to five different companies, Mafube Payment Solutions, Arvomark, Street Talk Trading 181, Biz Fire Worx (where Makwakwa was a previous director) and to Mercedes Benz Financial Services. The last payment is believed to have been for a Mercedes Benz C220 BLUETEC for Kelly-Ann Elskie.

New Integrated Credit Solutions had been subcontracted with Mafube to analyse debt data for SARS.

The sensational revelations come after Gordhan's statement that President Jacob Zuma's close friends and associates, the Gupta family, should turn to the country's courts if they felt they had been treated unfairly by the country's banks which had refused to do business with them. It is believed the country's big four banks had been "uncomfortable" with some of the transactions in accounts held by entities linked to the family and that they (the banks) were required to report suspicious and unusual transactions to the Financial Intelligence Centre.

It has not been confirmed at this stage whether the alert to the funds in Makwakwa and his girlfriend's accounts have any link with the Gupta family.

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It was Tom Moyane who in March 2015 lodged a complaint with the Hawks about an apparent "rogue unit" and that has led to the very public hounding of the Minister of Finance as well as several other former members of the SARS executive including Deputy Commissioner Ivan Pillay and group executive, Johann van Loggerenberg. The former SARS members, as well as Gordhan, were recently all ordered to present themselves for "warning statements" at the Hawks headquarters in Pretoria. News that the Hawks were still hounding Gordhan sent the rand into yet another tailspin from which it has not yet quite recovered.

In December 2014 the entire former SARS Exco was driven out of the revenue service after untested allegations emerged in a series of *Sunday Times* stories about an illegal "rogue unit" that had operated at SARS and that had been established during Gordhan's tenure as commissioner.

With regard to the complaint Moyane had lodged, Gordhan said that the question everyone should ask was "why?".

"Since then we have had a newspaper [the *Sunday Times*] that carried out an 18-month campaign against certain individuals. At the end of the 18-month period that newspaper had apologised for what it had done because it didn't have proof for some of the stuff that it was accusing people of. As we sit today, what is the problem? Who is accused of what? What motivates it?"

The revelations by the banking regulator of Makwaka's alleged criminal behaviour could be a tipping point that results in the collapse of the entire House of Cards that has been constructed around SARS, with a ripple effect on the Hawks, the National Prosecuting Authority and ultimately Zuma. It is only a matter of time before the edifice must crumble and those behind it be exposed. DM

Photo: SARS commissioner Tom Moyane (GCIS), Jonas Makwaka, the second most senior member of the SARS executive (SARS)

- MARIANNE THAMM
- SOUTH AFRICA

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