

WEBBER WENTZEL

in alliance with > Linklaters

Attention:

Ms Michelle Ramoorthy, Advocate Naomi Humphreys & Advocate Mpho Doubada

Senior Deputy Directors of Public Prosecutions
Specialised Commercial Crimes Unit

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Attention:

Colonel SP Magobosha

Acting Section Head: Serious Economic Offences Unit
Department of Priority Crimes Investigation

Fax: 012 3387502

Copy to:

Advocate Shaun Abrahams

National Director of Public Prosecutions

ndpp@npa.gov.za

Your reference

Our reference
Moray Hathorn
3022897

Date
29 March 2018

Dear Sirs

Progress of Investigation of alleged contravention of section 34 of the Prevention and Combatting of Corrupt Activities Act, 12 of 2004 and related charges: Brooklyn CAS 222-12-2016

1. We refer to the above matter and our letter dated 23 March 2018.
2. We act for Corruption Watch (RF) NPC ("our Client"), the complainant in the above matter on a pro bono basis.

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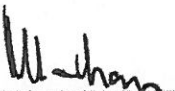
Senior Partner: JC Els Managing Partner: SJ Hutton Partners: BW Abraham RB Africa NG Alp OA Ampofo-Anti RL Appelbaum DC Bayman KL Beilings AE Bennett AP Blair DHL Booysen AR Bowley JL Brink S Browne MS Burger RI Carrim T Cassim SJ Chong A Christie KL Collier KM Colman KE Coster K Couzyn DB Cron PA Crosland JJ Daniels JH Davies PM Daya L de Bruyn PU Dela JHB de Lange DW de Villiers BEC Dickinson MA Diemont DA Dingley G Driver HJ du Preez CP du Toit SK Edmundson KH Eiser AE Esterhuizen MJR Evans AA Felekis GA Fichardt G Fitzmaurice JB Forman C Gabriel CP Gaul KL Gawith OH Geldenhuys MM Gibson SJ Gilmour H Goolam CI Gouws PD Grealy JM Harvey MH Hathorn JS Henning KR Hillis XNC Hlatshwayo S Hockey CM Hofeld PM Holloway HF Human AV Ismail ME Jarvis CM Jonker S Jooste LA Kahn M Kennedy A Keyser M Kyle J Lamb A Manie L Marais S McCafferty MC McIntosh SJ McKenzie SI Meltzer CS Meyer AJ Mills JA Milner D Milo NP Mngomezulu S Mogale M Moloi LE Mostert VM Movshovich RA Nelson ZN Ntshona AN Nyatumba L Odendaal GJP Olivier N Paige AMT Pardini AS Parry S Patel GR Penfold SE Phajane TC Phala MA Phillips D Ramjettan GI Rapson Z Rawoot K Rew G Richards-Smith NJA Robb DC Rudman S Rugan WJ Rysbergen M Sader H Samsodien JW Scholtz KE Shepherd AJ Simpson N Singh N Singh-Nogueira P Singh J Smit MP Spalding PS Stein MW Straeuli LJ Swaine JM Swanepoel Z Swanepoel A Thakor TK Thekiso A Toefy ZJ Truscott PZ Vanda PP van der Merwe SE van der Meulen CS Vanmali JE Veeran D Venter B Versfeld MG Versfeld TA Versfeld DM Visagie EME Warrington J Watson AWR Westwood KL Williams K Wilson RH Wilson M Yudaken Chief Operating Officer: SA Boyd

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3. Criminal Charges

- 3.1 As explained in our letter, our client laid criminal charges against Mr Tom Moyane for violations of PRECCA and FICA, and Mr Jonas Makwakwa and Ms Kelly-Ann Elskie in respect of FICA offences.
- 3.2 In a letter to us dated 27 March 2018 a copy of which is attached marked "Q" the DPCI has now indicated that:
- 3.2.1 the NPA is not proceeding with the prosecution of Mr Moyane in respect of the allegations for contravention of section 34 of the Prevention and Combatting of Corrupt Activities Act and the allegations for contravention of sections 29(4), 60(1) and 60(2) of the Financial Intelligence Centre Act; and
- 3.2.2 the cases in respect of Mr Makakwa and Ms Elskie are still under investigation, bank statements from financial institutions and affidavits from witnesses have been obtained and there has been ongoing consultation with the Prosecutor allocated to deal with the matters and more evidence still to be obtained.
- 3.3 In the circumstances we make the following demands:
- 3.3.1 that a certificate of *nolle prosequi* in respect of the charges laid against Moyane, under PRECCA and FICA, be issued to our client within 2 weeks of 23 March 2018; and
- 3.3.2 concerning the cases of Makwakwa and Elskie for decision, full details of progress of the matters is requested within 2 weeks of 23 March 2018.
4. Our client's rights are strictly reserved.

Yours faithfully


WEBBER WENTZEL

Moray Hathorn

Partner

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Q

SUID-AFRIKAANSE POLISIEDIENS



SOUTH AFRICAN POLICE SERVICE

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Navrae Enquiries	Col Magobosha Capt LT Ndlela
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SECTION HEAD: SERIOUS ECONOMIC
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INVESTIGATION
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Att: Mr. Moray Hathorn

PROGRESS OF INVESTIGATION INTO MR JONAS MAKWAKWA, MS KELLY-ANN ELSKIE AND MR TOM MOYANE: BROOKLYN CAS 217/12/2016, BROOKLYN CAS 218/12/2016 AND BROOKLYN CAS 222/12/2016.

This office hereby acknowledge receipt of your letter dated 2018/03/23 and contents have been noted.

The allegations for Contravention of Section 34 of Prevention and Combatting of Corrupt Activities Act and allegation for Contravention of Section 29 (4), 60(1) and 60 (2) of Financial Intelligence Act against Commissioner Moyane were both investigated under Brooklyn CAS 222/12/2016 which was declined by the Prosecutor.

Brooklyn CAS 217/12/2016 and Brooklyn CAS 218/12/2016 are still under investigation. Bank statements from Financial Institutions and affidavits from witnesses have been obtained. There has been ongoing consultation with the Prosecutor allocated to deal with the matter and more evidence still to be obtained.

Further developments will be reported


BRIGADIER
SECTION HEAD: SERIOUS ECONOMIC OFFENCES UNIT
DIRECTORATE FOR PRIORITY CRIME INVESTIGATION
RM MAKINYANE

Date: 2018/08/27

