

Corruption Watch (RF) NPC
Reg. No. K2011/118829/08
8th Floor Heerengracht Building, 87 De Korte Street
Braamfontein 2001 Johannesburg
P O Box 30630 Braamfontein 2017
T +27 (0)11 242 3900 F (0)11 403 2392
info@corruptionwatch.org.za www.corruptionwatch.org.za



25 January 2018

Adv. Shaun Abrahams
National Director
National Prosecuting Authority (“NPA”)
Per email: ndpp@npa.gov.za

And to: Mr Luvuyo Mfaku
Spokesperson
National Prosecuting Authority
Per email: communication@npa.gov.za

Dear Adv. Abrahams,

Corruption Watch Enquiry: Investigation into SARS employees

1. We refer to the above matter and to our letter dated 31 October 2017, to which we not had the courtesy of a response. A copy of our letter is attached for ease of reference.

Criminal Charges against Makwakwa and Elskie

2. We confirm that on 8 December 2016, we lodged charges against Mr Makwakwa and Ms Elskie in respect of their alleged criminal acts in terms of the Prevention and Combating of Corrupt Activities Act 12 of 2004, (“PRECCA”), the Financial Intelligence Centre Act, 38 of 2001 (“FICA”) and the Prevention of Organised Crime Act, 121 of 1998 (“POCA”). These allegations arose from a report prepared by the Financial Intelligence Centre (“FIC”) and provided to SARS Commissioner, Tom Moyane on 17 May 2016.
3. Despite having followed up on several occasions with the Directorate for Priority Crime Investigation (“Hawks”) on the status of the investigation into Makwakwa and Elskie, we received no response until end October 2017, when Colonel Hebert Heap

contacted our offices for assistance in relation to the investigation. He indicated, at the time, that the arrests of Makwakwa, Elskie and Moyane were imminent. We attempted to follow up with him on this and were unable to reach him.

4. In a turn of events, we were contacted on 14 December 2017 by Colonel Magobosha who indicated that the investigation against Makwakwa and Elskie were ongoing. We are currently uncertain as to the status of the investigation and any steps being taken to prosecute Makwakwa and Elskie. We do however, understand that investigations of this nature are led by prosecutors and would appreciate an update on the status of the investigation and progress made by the NPA towards prosecuting Makwakwa and Elskie.

Criminal charges against Moyane

5. In respect of the charges we laid against Mr Moyane, under case number 222-12-2016, Colonel Magobosha informed us in a letter dated 14 December 2017 that the investigation was finalised and was referred to the Specialised Commercial Crime Unit of the National Prosecuting Authority for decision. He indicated that the senior state advocate declined to prosecute the matter.
6. Please provide us with detailed reasons for the NPA declining to prosecute Moyane in respect of alleged breaches of PRECCA and FICA. Please also indicate whether a certificate *nolle prosequi* could be provided to us and if not, detailed reasons for refusing to provide us with such a certificate.
7. Kindly provide us with a response by Tuesday, 30 January 2018. In addition, please note that in the interests of transparency, we may publish this correspondence and any response thereto.

Yours faithfully,

Leanne Govindsamy
Head, Legal and Investigations
Corruption Watch
[Unsigned due to electronic transmission]