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25 November 2016

Mr Tom Moyane
Commissioner
South African Revenue Services
Per email: Tmoyane@sars.gov.za

And to: Mr Pravin Gordhan
Minister of Finance

C/o. Ms Blessing Sokhulu
Personal Assistant to the Minister of Finance
Per email: minreg@treasury.gov.za / blessing.sokhulu@treasury.gov.za

Dear Commissioner Moyane

Corruption Watch Enquiry: Financial Intelligence Centre Findings on Mr Makwakwa

1. We refer to the above matter. We also refer to our letter dated 25 October 2016 and your response dated 27 October 2016.
2. We confirm that we considered your response carefully and proceeded to write to the Director of the FIC, Mr Murray Michel as well as to the Head of the Hawks, Lieutenant-General Berning Ntlemeza, in order to seek confirmation and clarity on certain aspects of your response. Copies of our letters are attached for ease of reference as "A1" and "A2" respectively.
3. We received a response from the FIC on 16 November 2016, which is attached as annexure "A3" but have not received a response from Lieutenant-General Ntlemeza.

Investigation and Sanctions against Mr Makwakwa and Ms Elskie

4. In your response dated 27 October 2016, you indicated that the Hawks have commenced with a criminal investigation into racketeering and money laundering against Mr Makwakwa and Ms Elskie and that the investigation is being administered by the Hawks' Anti-Corruption Investigation Unit under DPCI enquiry 03/06/2016.
5. Your averments are contrary to information provided by Hawks Spokesperson, Brigadier Mulaudzi to the *Daily Maverick* during October 2016 in terms of which he stated on no uncertain terms that there was no case being investigated by the Hawks as the matter is internal to SARS.
6. In light of the contradictory statements made by yourself and the spokesperson for the Hawks and in absence of any evidence to confirm that the Hawks are investigating Mr Makwakwa and Ms Elskie, we have no option but to proceed with lodging criminal proceedings against them.

Other Legislative Breaches and Offences

7. In response to our allegations that you have breached section 29(4) of FICA, you indicated that your actions were authorized by the legislation, however your disclosure of the report to Mr Makwakwa and Ms Elskie has undermined the objects and purport of FICA and potentially prejudiced the investigation of these matters by the relevant authorities. In the circumstances, we will proceed to lodge criminal proceedings against you in terms of sections 60(1), 60 (2) and 29(4) of FICA and confirm that the relevant authorities will have to investigate and take steps towards prosecution ultimately enabling an appropriate court to determine whether or not you have committed offences in terms of FICA.
8. Finally, we confirm that in your response dated 27 October 2016, you indicated that you are aware of your obligation to report offences of corruption to the SAPS and the Hawks in terms of section 34 of PRECCA. You confirmed that you did not report the matters to the Hawks because they had advised you in writing that they had already

commenced an investigation into the matters and that you were therefore not required to do so.

9. We have written to the Hawks in order to confirm their advice to you and to request copies of the correspondence sent to you. We have not received a response from the Hawks and are therefore unable to establish the veracity of your statements.
10. In the circumstances and in absence of any evidence to confirm your averments, we have no option but to proceed with lodging criminal complaints against you for failing to report these matters to the Hawks in terms of section 34 of PRECCA.
11. Please note that in the interests of transparency, we may publish this correspondence and any response thereto.

Yours faithfully,

David Lewis
Executive Director
Corruption Watch
[Unsigned due to electronic transmission]