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### **Zondo commission – details of Amigos case surface in auditor’s testimony**

Forensic auditor Trevor White started his 2009 investigation into alleged procurement irregularities in the KwaZulu-Natal provincial government from the bottom up. The accountant-general in National Treasury advised White to proceed thus to avoid the possible muddling of the probe, should he end up finding against politicians. Dubbed the “Amigos” case, because of how those involved referred to each other, the matter is yet to be heard in court, despite having dogged the provincial administration and the ANC for a decade.

White appeared before the commission of inquiry into state capture on Wednesday, wrapping up his testimony.

By the end of his investigation, he said, he had identified 23 suspects, 18 of them natural persons, and revealed that a total of R144-million had left the coffers of the provincial departments of health and local government in irregular deals with Cape Town-based billionaire Gaston Savoi’s Intaka Holdings.

Savoi was among the suspects eventually charged and arrested, as were Peggy Nkonyeni and Mike Mabuyakhulu, then MECs of the departments of health and local government, respectively. The rest included senior officials from both departments, and then head of provincial treasury Siphoshe Shabalala and his wife Beatrice. Nkonyeni and Mabuyakhulu, however, escaped prosecution after the National Prosecuting Authority (NPA) decided against going after them on the basis of lack of evidence.

White first learned that charges against Mabuyakhulu would be dropped, following a decision with the NPA, at a March 2012 meeting between the investigating team and the prosecuting body. “It was a very unusual meeting,” said White, who added that it soon became clear lead prosecutor Advocate Ncedile Dunywa was a spectator. The decision was shared instead by former head of the NPA’s specialised commercial crimes unit, Lawrence Mrwebi, who has been named by several commission witnesses in allegations of undue interference.

“Mrwebi informed us there was a decision to withdraw the charges against Mabuyakhulu and they wanted to know the evidence we had against Nkonyeni as they were planning on withdrawing charges as well,” said White. At this point in the case, all suspects had already been arrested and charged and were due to be indicted in the KwaZulu-Natal high court.

The case involved allegations of corruption, racketeering, and fraud relating to procurement irregularities in the two departments. At the time of the meeting with Mrwebi, a racketeering certificate had already been issued.

Intaka was contracted by the two departments to supply water purification and oxygen plants without procurement processes being followed. According to White, his investigation revealed that long before a tender was advertised in 2007, Intaka already had reason to believe they had it in the

bag. His evidence showed that heads of both departments were in cahoots with Savoi, who even partly provided the tender specifications, which were altered from their original form to accommodate Intaka. Shabalala, meanwhile, promoted the projects as “urgent” needs for the province.

It was the latter who ignited an interest in Intaka within the health department back in late 2005 when current health minister Dr Zweli Mkhize was MEC. Shabalala was among the first of the suspects to meet Savoi, even taking a trip to South America, paid for by the businessman, to see the products for himself. On his return, he penned a memorandum to Mkhize motivating for Intaka to provide the services.

The money to fund the roll-out was to come from the province’s poverty alleviation fund. A further step was to propose that the department’s central procurement committee waive normal procurement procedure, and invoke an emergency procurement clause to enable the purchase of the plants. This was done via a round robin exercise in which some members, although approving, wanted clarity as to why procedure was being circumvented. Zondo questioned the commitment of the members who noted their concerns, if these were not pursued further.

Once the minutes of a procurement committee meeting held in February 2006 were approved, said White, the order for plants was placed in June of the same year. Soon afterwards, Intaka made an unexpected additional charge to the department for the transportation of equipment from Cape Town to KwaZulu-Natal. Although this caused some consternation, it was eventually included in the first payment of R44.5-million to Intaka in early 2007.

In the end Intaka was signed on as the contractor, and its service of water purification plants extended to Mabuyakhulu’s department, which oversees the municipalities in the province.

Around the same time, a payment of about R1.050-million was made, this time from Intaka to the trust account of legal firm Khuboni Shezi Attorneys. Some of this money, said White, would start paying for expenses relating to the operations of a farm owned by the Shabalalas. Beatrice Shabalala is involved through a company called Shyros Medical Supplies, registered in 2004, of which she and Savoi are both directors.

About R1-million of the money from Khuboni Shezi was paid to the ANC through Mabuyakhulu, in what a later affidavit by Savoi said was a donation.

Even later that year, another R1-million was paid to a company named Rowmoor Investments, which White said was owned by a man named Linda Mkhwanazi. The payment was made in two tranches of R500 000, in August and November. Mkhwanazi was linked to Peggy Nkonyeni and is believed to have been romantically involved with her at the time. White found evidence of a short holiday enjoyed by the two in Cape Town and paid for by Savoi, that appears to support this belief.

Despite the urgency presented in support of the projects by Shabalala, said White, there are cases where the plants were never installed in full or indeed, at all. Intaka, however, continued to benefit, he said.

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