



2 November 2020

Zondo commission – Kwinana denies meddling in SAAT ground handling contract

Yakhe Kwinana has denied bullying Swiss ground handling services company Swissport into pulling in JM Aviation as its BEE partner in early 2015. Swissport entered into a contract with SAA Technical (SAAT) – of which Kwinana was chairperson – in 2012 for ground handling services. By the time she met with the company’s representatives in February 2016, the contract had been extended several times and according to Kwinana, was irregular.

Evidence leader Advocate Kate Hofmeyr read into the record parts of affidavits of two of the Swissport officials at the meeting, both of whom made notes of the discussion. The pair recorded that Kwinana had made a remark about “locking them in the room until they agreed” to an SAAT term to set aside 30% of the value of the R1.3-billion contract to a BEE partner. She denied this, calling into question the authenticity of the notes referred to by Hofmeyr. In fact, Kwinana could not be drawn to admitting that such a meeting occurred, saying that she remembered it being a short encounter where she apprised Swissport of a general SAA Group rule to ask all new contractors to bring in BEE partners at a value of 30% of the total contract.

According to Swissport, part of the problem was that agreeing to such a term would be detrimental to the company, as it would eat considerably into its profit.

“Is your evidence that at no point were you motivating for Swissport to bring a BEE partner to obtain 30% of the Swissport ground handling agreement?” asked Hofmeyr.

“No chair. What we were saying about the 30% set aside was that the companies need to comply with BEE. We said to them they must comply. We didn’t say partner with a BEE. We said comply with BEE requirements.”

Swissport was sent a draft agreement shortly afterwards, which set out the terms for the 30% allocation. Hofmeyr asked if Kwinana was aware of that document, to which she responded in the negative. She also denied the evidence of former SAA head of procurement Masimba Dhawa, who testified that Kwinana instructed him to draft the letters of award to Swissport and its BEE partner.

“How then did you ensure proper tender process was followed?” asked Hofmeyr

“I gave the direction to say this is what should happen. The implementation is not mine,” said Kwinana. “When we say regularise, we don’t have to tell them how, because of the calibre of people we have there.”

Her involvement in the said meeting puzzled commission chairperson Deputy Chief Justice Raymond Zondo, who questioned the justification for a board member attending a meeting about

operational matters. Kwinana maintained that she attended in support of the executives in charge, to provide perspective on the BEE regulation. It was not a show of doubt in the expertise within the company, she said.

“But that’s why a board member is not needed in operational matters,” Zondo asserted.

“Chair, the issue of BEE is a strategic issue, and therefore that’s why I was required to go and give support and give feedback to the board.”

At this point, she knew Vuyisile Ndzeke, whose company JM Aviation would soon partner with Swissport as its BEE shareholder, having met him the previous year during SAA’s BEE roadshows, said Kwinana. The first time she engaged Ndzeke in respect of his involvement with Swissport, however, was when issues of affordability on SAAT’s part arose. Prior to this, Kwinana had not played any role in linking the two companies, she said.

But there was some contention between Hofmeyr and Kwinana over whether or not the March 2016 agreement warranted a stand-alone contract or a mere extension. Kwinana’s initial position was that there was no new contract entered into in March, but rather a review of its terms and conditions by the SAA board, which is the only portion to which she was privy.

But she conceded later when Zondo put to her that by merely approving on the terms and conditions of a contract, the board was in effect deciding and approving the contract.

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