



December 2020

Zondo commission – an eventful year in review, part 2

This is the second of two articles that look back at the year that was for the commission of inquiry into state capture, which closed public hearings for 2020 on Friday 11 December.

Early in August this year, relatively unknown Edwin Sodi made his [first appearance](#) before the commission of inquiry into state capture. He appeared twice more, and a much publicised arrest by the Hawks followed the third, on 29 September. Sodi's arrest was in relation to the allegedly irregular 2015 Free State asbestos project that has to date cost the province R230-million. He has since made startling revelations about [giving money](#) to top ANC officials.

Sodi described himself as an experienced businessman, conceding to commission chairperson Deputy Chief Justice Raymond Zondo that much of his wealth comes from having made good on lucrative government contracts over some years. He and the late Ignatius Mpambani first proposed the project to the Free State government in early 2014. Their joint venture of Sodi's Blackhead Consulting and Mpambani's Diamond Hill Trading was meant to eradicate asbestos roofing on all township housing across the province. The unsolicited proposal estimated the cost of the project at R255-million for work to be done on about 300 000 houses.

But there was no budget for the project, and money had to be sourced from national government. Fast forward to 2020, when no asbestos has been removed, and a public protector investigation has halted the release of funds to the JV, but only after R230-million had already been paid. Lawsuits abound in relation to the JV, because an unhappy sub-contractor of a sub-contractor appointed by the JV was not paid.

Prior to Sodi's first appearance in August, former human settlements director-general [Thabani Zulu](#), was asked about his [involvement](#) in the project, as was the head of the Free State housing department, [Nthimotse Mokhesi](#). Both were among the eight people were taken into custody on 30 September in a co-ordinated swoop by the Hawks. It was months before ANC secretary-general Ace Magashule's arrest followed – in November – also in connection with the project. The only evidence to date that linked then premier Magashule directly to the irregular award was that of one of his former MECs, Mxolisi Dukwana in 2019. The case was postponed to February next year.

The commission also learned for the first time of how the Gupta family allegedly moved money from government contracts through laundering vehicles and bank accounts opened especially for the purpose. Investigator Paul Holden told the commission that the Guptas always intended another Free State project that has dogged the province for years – the Estina dairy farm – to be a money laundering vehicle. Johannesburg-based Estina won a contract from the provincial government to oversee the Vrede Dairy Farm in 2012.

Several companies in a network run by India-based World's Window Group were used to move money around, and from the R280-million paid for the Vrede project, the cabal accumulated additional "interest" that brought the Gupta Enterprises' profits to around R880-million.

This, explained Holden, was done through a concept referred to as "roundtripping", which is popular among launderers. He named several entities, including Estina, Aerohaven, Accurate Investments, Linkway Trading, Gateway Limited and Vagarsfield, that were used to move broken up, smaller amounts of the funding around in and out of several bank accounts both local and offshore, to avoid detection, only to be returned into the original Estina account. Similar ventures were carried out in respect of other government work, including large state-owned enterprises (SOEs) like [Transnet](#) and Eskom.

The two SOEs themselves got a lot of attention this year. Both featured in evidence last year that involved alleged procurement and recruitment irregularities. This year, however, the commission focused its attention respectively on the boards of Transnet and Eskom in the [re-instatement](#) of Siyabonga Gama, and suspension of top executives. Former Transnet chairperson Mafika Mkwanazi admitted to the unlawfulness of his [placement](#) in late 2010 by then public enterprises minister Malusi Gigaba, and his mandated task to get Gama's dismissal from Transnet Freight Rail over procurement misconduct reviewed and overturned. Gama had been suspended and later dismissed in 2009 by a disciplinary process, but reinstated under Mkwanazi's watch, and against the advice of the company's counsel, in 2011. He was later promoted to GCEO of Transnet when Brian Molefe was seconded to Eskom in early 2015.

It was the [very secondment](#) of Molefe in April, while CEO Tshediso Matona was under suspension at Eskom, that piqued the commission's interest. Matona, along with financial director Tsholofelo Molefe, head of group capital Dan Marokane, and head of technology and commercial Matshela Koko were [suspended](#) on 11 March 2015. [Different versions](#) of what happened on the day have come from several former board members, but all agree that the four suspensions were first mooted by then chairperson Zola Tsotsi following a [meeting](#) with former president Jacob Zuma just days before.

All four former executives have appeared before Zondo, acknowledging that they were being discarded under the [ruse](#) of a necessary investigation into Eskom's performance, only to be offered separation packages the following month. Koko on the other hand has been [implicated](#) by several witnesses as having known of an external plan to get rid of the other three, but he has denied this, saying the former managers who claimed this have been coached to do so. The board did not offer him a separation agreement like the others, according to former company secretary Suzanne Daniels, but instead asked him to choose if he wanted to come back. Those who implicate him place him at a Melrose Arch office building in the company of Gupta associate Salim Essa, predicting the suspensions and how he would survive the purge.

A [similar occurrence](#) happened at Denel in September that year, with GCEO Riaz Saloojee, CFO Fikile Mhlontlo and company secretary Elizabeth Africa being suspended while the [board investigated](#) their conduct in a major acquisition by the SEO. Saloojee and Mhlontlo believe they too were purged, but then board chairperson Dan Mantsha refuted this when he appeared in November. He urged the commission to look into Saloojee's [close relationship](#) to Essa. Several contracts awarded to Essa's [VR Laser](#) came under scrutiny, after previous evidence alleged his part in a hostile takeover of the company ahead of the awards.

This year also saw an introduction to the Prasa evidence, from irregular awards to [board interference](#) in procurement issues. The commission heard from current chairperson Popo Molefe and several executives. According to its legal head Martha Ngoye, there are currently over 100 litigation matters where Prasa is either being sued by, or is suing, suppliers. She outlined the cases for several contracts awarded during the tenure of erstwhile CEO Lucky Montana, claiming favouritism on his part.

Montana, the commission heard from a variety of witnesses, appears to have used Prasa as his own personal slush fund, buying million of rands' worth of properties in affluent areas on a whim, while creating diversion from detection. Montana, who laid a complaint against Zondo before the Judicial Service Commission, is expected to appear to address the allegations.

One of the year's highlights was the cross-examination of Public Enterprises Minister Pravin Gordhan by former SARS commissioner Tom Moyane at the end of November. Gordhan's first expected appearance was postponed in August, when he cited Cabinet commitments as his reason for not being available. This solicited [harsh words](#) from Zondo, who said President Cyril Ramaphosa had made an undertaking to him that he would ensure that Cabinet members would be freed if they needed to avail themselves for the commission.

When he did finally appear, Gordhan was forced to [make several concessions](#), including the fact that Moyane had never included him in a list of people against whom he laid criminal charges when he resumed office in 2014. Moyane's legal representative, Advocate Dali Mpofu, challenged Gordhan on the notion that the minister testified to in November 2018, that Moyane was pursuing an agenda of state capture in his actions, and that the commission should therefore investigate this. Beyond the merits of the evidence that was being tested, however, the tone of the exchange between Mpofu and Gordhan took centre stage. After a long day of proceedings and the longest cross-examination ever granted by Zondo, it was still suspended until a later date to be determined.

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