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Zondo Commission – SAA’s former CFO feared for her job and life when dealing with Dudu Myeni

Phumeza Nhantsi has told the commission of inquiry into state capture that she endured severe pressure from Dudu Myeni on the one hand and Masotsha Mngadi of BNP Capital on the other to sign off on an irregular cancellation fee for the company in 2016. The former CFO of SAA said she was forced to play along with Myeni, while going behind the former SAA chairperson’s back to get other board members to vote against approving the payment of almost R50-million.

BNP had been contracted in a R256-million deal to secure funding for SAA for R15-billion, and the amount covered 1.5% of the loan.

Nhantsi’s efforts were in vain, as the board did approve, but she told the commission on her last day of testimony on Wednesday that she and then acting CEO Musa Zwane decided to approach other directors because they knew that it was not in the best interest of SAA to pay BNP the money.

Nhantsi said that she often feared for her life and her job where Myeni was concerned, because she had heard from colleagues that certain employees had lost their jobs or had been suspended for having stood up to the chairperson in cases where her decisions were challenged.

“I was aware, I was still going to take action on that...” said Nhantsi, when asked by evidence leader Kate Hofmeyr if she knew that approving such a transaction amounted to contravening the Prevention and Combating of Corrupt Activities Act (Precca). According to Precca, a witness to corruption within the public procurement space has an obligation to report it when it happens. By signing a memorandum that recommended the payment, Nhantsi became part of the irregularity. Together with Zwane, she was suspended, and later dismissed from SAA following an investigation into the matter.

BNP came into the picture at SAA when the national airline first sought financing for a loan meant to consolidate its debt in 2015. On the back of government guarantees amounting to R15-billion, it embarked on a procurement process that brought it down to two options that were both declined by the board in December of that year.

A third option was then considered by SAA that involved the Free State Development Corporation (FDC), a provincial funding entity that would later be ruled out at the beginning of 2016 for having acted outside its mandate in making a proposal in the first place. By the time the deal was struck off the table with FDC, however, BNP had been appointed through a confinement process, initially as advisors on fund sourcing (when FDC was still involved), and later to help secure the loan, following FDC’s removal as a prospect. BNP approached the same Russia-linked funder, Grissag AG, that the FDC had earlier secured as its partner in the deal. The scope of BNP’s services was then broadened without going to tender, and the contract increased from around R2-million to over R200-million.

A BNP director, Masotsha Mngadi, was also Myeni’s personal financial advisor. Myeni had introduced the two on Nhantsi’s arrival in November 2015, and told her that she would work closely with him in future. Nhantsi

told the inquiry on Tuesday that she realised in hindsight that she had been used by both, for the purpose of enriching themselves. She also knew Mngadi to be working for Nedbank at the time of meeting him. Mngadi has succeeded, through his legal representative, to halt the oral evidence of former BNP CEO Daniel Mahlangu, who was scheduled to follow after Nhantsi to give evidence. Mahlangu, like Nhantsi, is expected to implicate Mngadi, who told the commission that he had not received notices of the pair's evidence against him, as should be the case. One of the commission's rules on implicated people is that they are entitled to receive notices ahead of the oral evidence of witnesses who are to implicate them, to give them a chance to either submit their own versions of statements, or apply for the right to cross-examine the witnesses, or both.

When an investigation into the BNP deal was conducted following whistle-blower and former group treasurer Cynthia Stimpel's endeavours, it found against SAA for having entered into the deal with BNP. The transaction deal was cancelled, but that was not the end of road for SAA and BNP. The latter demanded a cancellation fee from the airline, citing the need to cover the costs allegedly incurred by Grissag, due to the loss of the deal. BNP argued in a letter sent to SAA in June 2016 that Grissag had already started negotiating with potential international funders in a bid to secure the loan amount. BNP, in this regard, wanted SAA to pay for these losses.

This reason was refuted by Grissag director Peter van der Merwe, however, when he testified last week that his company knew nothing of the cancellation that was sought in its name. Van der Merwe also said Grissag had not begun sourcing funding in the timeline stipulated by BNP.

BNP's partnership with Grissag had started in February that year, when Van der Merwe had received a call from a Dan Mahlangu, who told him he was BNP's CEO and that the company had been appointed for fund sourcing purposes. To this point, Grissag had engaged with FDC for the same deal, and before that Seacrest, one of the companies whose proposals had been declined by the board.

When an issue surfaced in May over BNP not having a license to operate in fund sourcing from the Financial Services Board, Nhantsi e-mailed Mahlangu to ask for proof of the license. She never got it, but instead was told that BNP had submitted all relevant documents that were required for approval of the agreement.

By June, however, the focus had shifted to the regularity of the transaction deal, and whether or not SAA had a leg to stand on in defending its appointment of BNP. SAA did not pay the cancellation fee.

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