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Zondo commission – Singh’s Trillian bonanza again the focus of Zondo commission

The state capture commission’s Advocate Pule Seleka noted on Thursday that former Eskom CFO Anoj Singh was so “hands off” in his first year at the company, that he led talks on a turnaround plan with external advisors McKinsey Consulting, “unaware” that there was no contract validating the agreement between the two companies. Singh joined Eskom in August 2015.

He admitted before the commission that although he chaired a steering committee that focused on the operational implications of the plan and how it was to be funded, he had never seen the contract entered into between Eskom and McKinsey. His defence was that he trusted that colleagues Edwin Mabelane and Krish Govender were alive to the status of the contract at the time. They also participated in the steering committee meetings, which were held from February to August.

McKinsey’s Alexander Weiss testified before the commission last year that he signed on behalf of the company only in September 2016, but had already been doing the advisory work related to it. His signing was with the understanding that the agreement was backdated to January of that year. The commission has also learned from Mabelane via an affidavit that he signed the document on behalf of Eskom in May 2016.

Commission chairperson Deputy Chief Justice Raymond Zondo had difficulty with Singh’s approach, saying that as CFO, and as chairperson of the steering committee, he should have been privy to the details contained in the agreement, as they would have given the mandate of the steering committee, and not simply assume that it existed. Initially Singh had told Zondo that the signing of the contract pre-dated his arrival at Eskom, but previous evidence from Mosilo Mothepu, a former Regiments Capital employee, revealed that her company together with McKinsey were in talks with Singh as early as two months before he joined Eskom, about a corporate plan as part of the power utility’s turnaround strategy. Regiments was the BEE partner and sub-contractor in the deal.

So what informed the work of the steering committee, which started meeting in February 2016?

“From my understanding and my recollection, the master services agreement had been concluded by this time ... I was not involved in the negotiation ... I was under the impression that it had been concluded,” said Singh, referring to the initial meeting of the steering committee.

Singh is expected to deal with the contents of a statement from a McKinsey representative whose version of events differs from his own. Zondo agreed that Singh would deal with the matter on his return on Friday evening, as his legal representative was only provided with the statement late and needed to consider it carefully with Singh first.

Earlier in the evening, the issue of a payment in April 2016 of R30-million to Trillian Capital, in relation to the corporate plan, had taken centre stage. Singh received the invoice from the company at the time, and forwarded it to the relevant people in Eskom to process.

The point of contention, however, was whether or not Trillian was the rightful recipient of the money. Trillian came about in early 2016 as a result of several Regiments Capital executives breaking away to form a competitor company. Among them was Eric Wood, who had been a Regiments director, and the contact person for Singh in late 2015 when the details of the corporate plan were first being discussed. Mothepu also moved with Wood, as did Gupta associate Salim Essa, who had greater control at Trillian as majority shareholder. After moving on to Trillian, Wood continued in his role as contact person, while McKinsey purportedly replaced Regiments with Trillian in the sub-contractor agreement.

Seleka argued that because the 2015 work was done by Regiments, as the sub-contractor agreed to at the time, the payment should have gone to that company and not to Trillian. He read a portion of Singh's affidavit in which the latter cites Wood as the main contact at Regiments in December 2015. On this basis, said Seleka, Singh wrongfully credited Trillian when he approved the payment. The purpose of the e-mail he sent to officials in the procurement division, was for payment to be processed.

"Forwarding an e-mail with no instruction does not mean go ahead and pay. It means go ahead and do what you're supposed to do to make sure that if you pay, you've complied with all the policies and procedures of Eskom," said Singh.

But was it normal for suppliers to send invoices directly to him, asked Zondo.

"It is not unusual for suppliers to send invoices to me. I received invoices from external auditors and the like ... the mere fact that I received it cannot be seen as approval of the invoice. In fact, ostensibly, I did not approve it.

"My expectation was that we received services from Trillian. If the validation process had revealed otherwise, it would not have been paid. It should not have been paid ... McKinsey approved that payment be made to Trillian."

But, Zondo continued, the letter from McKinsey was only sent after Singh had sent the e-mail for the payment to be processed. To this, Singh said he was under the impression that Trillian was the sub-contractor to McKinsey as per agreements between Regiments and Trillian.

"How would you think that if in your own affidavit you say engagements were with Eric Wood of Regiments?" asked Zondo.

"At that point in time Mr Wood was ostensibly wearing two hats," Singh responded, to which Zondo came back to say he wanted to pay the right hat.

"I ostensibly submit that we paid the right hat."

Seleka then asked if the payment did not cost Singh his career, on the basis that he was expelled by the South African Institute of Chartered Accountants (SAICA) last year after a disciplinary process found him guilty of misconduct.

"If you have regard to the SAICA finding, particularly this payment, they made a finding that I signed an invoice or approved the invoice. Yet again I request the commission to prove that I approved the invoice. My signature does not appear on the invoice," Singh replied.

If he did not approve the payment, Seleka further argued, he would not have passed it on for payment.

“My passing on an invoice does not mean I approve it to be paid. There could be a number of issues with that invoice that I’m not even aware of that needed to be taken care of,” said Singh.

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