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### **Zondo Commission – Zwane took over Optimum Mine-related issues upon his appointment as minister**

Former director-general of the Department of Mineral Resources (DMR), Thibedi Ramontja, told the commission of inquiry into state capture on Thursday that all issues relating to Optimum mine became centralised in the office of former minister Mosebenzi Zwane when he arrived at the department in late 2015. Prior to that, Optimum mine fell under projects driven by former deputy director-general Joel Raphela, with Ramontja's guidance.

Zwane joined the department in September of that year, replacing Ngoako Ramatlhodi, who was moved by former president Jacob Zuma to the Department of Public Service and Administration, following the passing of Collins Chabane in March of that year. Zwane has been perceived for some time to be one of those in Zuma's cabinet who had close links to the Gupta family.

Around the same period, Oakbay Investments, one of the companies owned in part by the Guptas, had its eye on the struggling Optimum mine, which was then owned by Glencore Minerals. The envisaged buyer of Optimum was Tegeta Explorations, part of the Oakbay group. Optimum mine was the sole coal supplier of Eskom's Hendrina power station, and was not only facing difficult times, but had in fact gone into business rescue. The mine had also developed a tense business relationship with Eskom, stemming from contractual issues regarding the pricing model of its coal supply agreement (CSA) with the power utility. According to the testimony in February of Optimum's former CEO Clinton Ephron, Eskom had, to that point, snubbed all efforts by Optimum to negotiate a better price for the coal it was getting for Hendrina. Ephron told the inquiry that the mine was operating at huge losses on a monthly basis, paying more for the mining of the coal than it was receiving from Eskom.

A change in Eskom leadership a few months before had seen the arrival of Brian Molefe as CEO, and it was he who told Ephron that they were not interested in re-negotiating an existing CSA, but would rather consider establishing a new one, if Eskom saw fit. Optimum's contract with Eskom was due to end only in December 2018. Ramatlhodi told the commission that he suspected that Zuma removed him from DMR because he had declined – under pressure from Molefe and then Eskom chairperson Ben Ngubane – to flout mining industry laws and grant licenses to the Guptas, who had approached him with that request.

From Ramontja's perspective, the issues between Eskom and Optimum were distant from the work of the DMR, save for an occasion when he received a letter in December 2015 from Matshela Koko, who was at the time the head of energy generation at Eskom. In the letter Koko was requesting the intervention of Ramontja's office in a matter involving what he said was a grave situation that could affect electricity supply for the country. Ramontja was being asked to step in and assist in the matter regarding the change of ownership of Optimum, and help expedite the transfer of mining rights for the new owners, so as to avoid disruption of supply, and inadvertently, electricity distribution.

He testified that he had not even known that Optimum was for sale, nor that an offer to purchase, and a sale agreement had been made between the two companies. Just days prior to the letter arriving, Zwane had flown to Switzerland on what Ramontja had thought was a trip to meet with investors. It was in fact, to meet with Glencore CEO Ivan Glasenberg, to persuade him on behalf of the

Guptas to sell Optimum to Oakbay. Raphela had travelled with the minister, but upon returning told Ramontja that he'd been excluded from the said meeting, and therefore did not know what transpired there. None of the travel documentation related to the trip, said Ramontja, had reference to a meeting with Glencore.

In his testimony, Ephron noted that Rajesh Gupta and Salim Essa, a close associate of the family who was introduced to Glassenberg as Zwane's advisor, were also present in the meeting. Ramontja had never heard of, or met Essa.

Several days after Zwane's return from Switzerland, Ramontja was called into the office of one of his advisors, Malcolm Mabaso, who told him that the minister wanted him to resign, and to do it in 20 minutes. It took some time for the shocked Ramontja to process this request, but he eventually wrote the resignation letter, with the help of a colleague, before giving it to Mabaso. There was no engagement from Zwane over the resignation.

While serving his notice, Ramontja came across a draft letter in his office that seemed to respond to the one sent by Koko earlier. It had the letterhead of the department, and his name as a signatory at the bottom. The letter purported that he would fast track the engagement of all the relevant regulatory bodies to ensure the speedy transfer of mining rights for the new owners of Optimum mine to avoid supply disruption.

It also touched on a pre-payment that would be made to Tegeta, to ensure that the operation of the mine was not affected by glitches related to the takeover process. Evidence leader Advocate Vincent Maleka said the pre-payment was in fact to help Oakbay cover the shortfall for the purchase of the mine, to which Ramontja agreed. Ephron and business rescue practitioner Piers Marsden had both testified that close to the deadline of the transfer of funds for the purchasing of Optimum, they had both been contacted by Oakbay executives who told them that they had incurred a shortfall of about R600-million of the R2.1-billion final-agreed price. This was around April 2016, when Eskom official Snehal Nagar was tasked with making an urgent transfer of R659-million into Tegeta's account, without explanation, by the general manager in finance, Maya Naidoo.

Ramontja signed the letter, with the view that he would revisit it to go through its contents again, but learned later that it had disappeared from his office. The next time he heard of the letter, was when it surfaced during last year's Eskom inquiry by Parliament's portfolio committee into public enterprises.

Commission chairperson, Deputy Chief Justice Raymond Zondo wanted to know from Ramontja why he did not follow up on the letter, given that he had not drafted its contents, and the fact that it had gone missing, which presented a risk to his office's compliance standards. Ramontja said he had taken comfort in seeing that one of the names included in the letter was that of Raphela, whom he trusted, but in hindsight sees the importance of following up. It was only through subsequent media reports on the subject that he was able to identify the possible malfeasance involved in the matter.

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