



16 May 2019

### **Zondo Commission – Trillian enters the picture, is paid R82m for work it did not do**

The commission of inquiry into state capture heard on Thursday how in May 2016 consultancy firm Regiments ceded its contractual obligations for Transnet's multi-billion-rand locomotives contract to Trillian Capital Partners, with the help of a confinement process facilitated by former group CEO Siyabonga Gama. It would not raise red flags if firstly, the confinement process followed procurement guidelines, and secondly if the exact process had not occurred just two years earlier, when Regiments inherited the rights of international firm McKinsey, under the same circumstances, and under the watch of Gama's predecessor, Brian Molefe.

Current acting GCEO Mohammed Mahomed told the inquiry that the board's special acquisitions and disposals committee approved the cession of certain contracts from Regiments to Trillian during a meeting held on 10 May 2016. Among the reasons for the approval was that the board was satisfied that the contract's broad based black economic empowerment (BBBEE) status had not been affected by the change of hands in responsibilities.

The committee's resolution had been in response to a memorandum from Gama, in which he made the case for the cession to go ahead, despite an increased contract value of R88-million, from R375-million to R463-million. "There was also a contract from 30 September 2016 to 31 March 2018, subject to zero budget implications for the company," explained Mahomed.

Besides two letters, the first from Regiments CEO Niven Pillay, and the second from the company's COO Eric Wood, informing Transnet of the intent between the two companies, no agreement has been found that clarifies the legal status of the arrangement.

Pillay, in his letter to then Transnet chief financial officer Garry Pita in March, speaks of Wood relinquishing his shareholding in Regiments, with the intention to take up shareholding in Trillian.

Wood's letter, dated 13 April, is addressed to Edward Thomas, Transnet's group supply chain officer, informing him of a separation agreement between himself and Regiments, the terms of which allowed for all Transnet contracts to be ceded to him. This detail is in a forensic investigation report by Fundudzi Forensic Services, commissioned by National Treasury. According to the letter, the cession became effective on 1 March 2016.

Asked by evidence leader Advocate Philip Mokoena if any due diligence had been conducted on Trillian to determine whether it was a suitable candidate for the service, Mahomed said there seemed only to have been scrutiny of its BBBEE status, and the documents he could find confirmed that Trillian Holdings was owned by Gupta associate Salim Essa.

Oddly, however, Mahomed recalled an occasion when he had been among an unknown number of undisclosed recipients of an e-mail from a senior manager at Regiments in March, informing addressees of a change in her e-mail address from the known Regiments one to a Trillian one.

Trillian, at this point in the contract, was not unfamiliar to Transnet. The company was found by Fundudzi to have been paid over R80-million for work not done in 2015, but claimed for their part in advising Transnet's treasury team during its negotiations for the terms of a R12-billion "club loan" with several local banks to fund the locomotives project. This is in addition to the R289-million paid to Regiments for services that Mahomedy claimed went beyond the agreed scope of work they were contracted for, in terms of facilitating funding plans for the project.

Phetolo Ramosebudi, Transnet treasurer at the time, was found by Fundudzi to have contravened the Public Finance Management Act in recommending the appointment of Trillian, knowing that they had not performed work in respect of the club loan. "[This] resulting in fruitless and wasteful expenditure of R82-million (Excl. VAT)", reads the report.

"There is no evidence that Trillian negotiated with Absa, Bank of China, Libfin and Nedbank as reflected in Ramosebudi's memorandum dated 17 September 2015. There is no evidence that Transnet performed any due diligence on Trillian before appointing the entity as a Lead Arranger for the ZAR club loan."

Ramosebudi resigned from Transnet in October last year, after being served with a suspension notice pending an investigation into allegations of an irregular relationship with Regiments.

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