



16 April 2021

Zondo Commission – Montana attacks Werksmans, Zondo on first day of testimony

Former CEO of Prasa Lucky Montana began his testimony before the state capture commission on Friday by daring private law firm Werksmans Attorneys to “bring out its big guns” to cross-examine him, as he was prepared to expose its undue influence in Prasa’s case against him. Montana said the firm enjoyed favour with the Prasa board that was led by Popo Molefe, which approved payments amounting to millions to investigate him for corruption that has to date not been proven.

Montanan also criticised the commission’s processes, saying that he initially filed an affidavit in 2019, but this was rejected on the basis that he did not follow the commission’s standard format for filing documents. Once that hurdle was overcome, said Montana, he was told to remove parts of his affidavit that implicate the firm. He drew from this that the commission was biased, possibly because of what he perceived as a conflict for two of its evidence leaders.

Commission chairperson Deputy Chief Justice Raymond Zondo was not spared either. According to Montana, Zondo showed bias and undermined the independence of the Hawks and the NPA during Molefe’s testimony when he instructed his investigations team to probe the inaction of the two bodies as described by Molefe in relation to the corruption case.

Werksmans has applied to the commission for permission to cross-examine Montana over allegations he has made regarding their appointment in 2015 to investigate allegations of corruption at the agency.

According to Montana, Molefe’s board handpicked Werksmans without following proper processes because they were obsessed with proving corruption under his watch. Even after then transport minister Dipuo Peters instructed them four times to cut ties with Werksmans over the investigations, the board persisted. So powerful and conflicted was Werksmans, he added, that it imposed forensic investigators of its own on the Hawks for the corruption case, associated with large contracts related to Prasa’s infrastructure modernisation and rolling stock programmes.

When he testified, Molefe lied and said the Hawks did not show interest in the matter, said Montana. This led to Zondo stating that the Hawks must be questioned on why they have sat on the matter for years without progress.

“If the chair looked at what was happening, you’d actually realise that Werksmans Attorneys, and Popo Molefe, were trying to influence the DPCI [Hawks] and the NPA. They actually took one of the companies contracted to them and said to the Hawks, you guys don’t have capacity to investigate what is called complex investigations,” Montana said.

They did this because they wanted to write a script, he added, to suit a particular narrative that he oversaw irregular awards of contracts in the programmes. Montana said he was angry when he

saw the reaction by Zondo to Molefe's assertions, because to him it translated into the chairperson undermining the independence of the Hawks and the NPA.

Another point of contention between Montana and the commission was related to the perceived conflict of two evidence leaders – Advocate Vincent Maleka, who has since left the commission, and the current evidence leader in charge of the Prasa evidence, Advocate Vas Soni. The two, he said, had conducted legal services on behalf of Werksmans in the past, and when his initial affidavit – which implicated the firm extensively – was rejected by the commission, he assumed that the reason was the conflict of the two counsels.

“Now we come here, the commission tells me ‘take out stuff about Werksmans’, but its own evidence leaders, its own investigators are conflicted on these particular matters.”

Soni responded to this by saying that on learning of the implication of Werksmans, he declared in writing to Paul Pretorius head of the commission's legal team, his past work with Werksmans, as well as to Zondo.

“I have never been briefed by Werksmans Attorneys in respect of either Mr Montana or Prasa ever, before or after the commission. I was briefed by Werksmans once about 14 or 15 years ago in a matter in Durban. It was a commercial matter, it had nothing to do with Prasa,” Soni explained.

Where he did have relations with Werksmans that involved Prasa, it was to provide a legal opinion in a matter unrelated to the scope of the commission, on whether the agency could charge Montana criminally.

“I'm surprised that Mr Montana thinks that that disqualifies me, because that opinion said given the position that Mr Montana occupied, he could not be criminally charged. But it had nothing to do with anything that the commission is investigating,” Soni said, adding that even before he came to the commission, he was not aware of the stream of evidence that was to be allocated to him.

In response to the allegation of his own bias, Zondo told Montana: “I can assure you that there is no predetermined outcome I have on anything, but I respect everyone's view. Certainly I can assure you of that. I can assure that I'm looking at all evidence. I may at a particular time think along certain lines about something, but it doesn't mean I've made a finding.

“I commend the fact that whatever concerns you have with the commission, its legal team or investigators, or even with the chair, you have articulated those concerns, I believe in a constructive manner, and I haven't seen anything destructive or disrespectful in the manner in which you articulated your concern.”

Montana previously applied to the Judicial Services Commission for Zondo's recusal, but was unsuccessful.

He continues to give evidence.

Useful links:

[Zondo Commission website](#)

Corruption Watch's [Zondo Commission update page](#)

[Prasa](#)