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Zondo commission – PwC must prove I benefited from amigos money, says Mabuyakhulu

ANC deputy chairperson in KwaZulu-Natal, Mike Mabuyakhulu, says the only connection between him and the infamous ‘amigos’ corruption case, linked to a R144-million allegedly irregular procurement deal in the provincial government, is a figment of the imagination of a PwC forensic investigator. Trevor White, he says, needs to prove that he benefited from proceeds of the award.

Mabuyakhulu told the state capture commission on Thursday evening that in June 2008 he received a R1-million donation from ANC member and head of provincial treasury Siphoshe Shabalala, in his capacity as party provincial treasurer. As a party member, Shabalala had heeded a call from Mabuyakhulu for donations in the lead-up to the elective conference of the same month. To date, Mabuyakhulu has never questioned Shabalala on where the money came from, but did disclose the donation to the relevant ANC structures.

Shabalala is one of the accused ‘amigos’ facing trial for racketeering, fraud and corruption.

How White arrived at the conclusion that the money was linked to a payment from Intaka Holdings – the company awarded the tender to supply water and oxygen purification plants across the province – to Shabalala’s lawyers, baffles Mabuyakhulu.

“Mr White should account for his unfounded claims that he makes in TSW 21,” Mabuyakhulu said, referring to an annexure to White’s affidavit to the commission in which he demonstrates his tracking of funds paid to Intaka and thereafter out of the company’s account. In his appearance at the commission in January 2020, White said Intaka made a payment of R1.053-million into the trust account of Kubone Shezi Attorneys, a firm that represented Shabalala at the time. This was in August 2007, some 11 months before Shabalala’s R1-million cash donation to the ANC.

“This commission is about establishing facts, and it cannot become a platform for rumour-mongering and baseless conjecture. Once the facts are established, the commission is expected to distil the truth from those facts,” said Mabuyakhulu.

He challenged White to provide proof that the money placed in the law firm’s account is the same that Shabalala ended up handing to him. Mabuyakhulu did concede that in declaring the donation to the ANC’s top structure in the province, he did not produce a written report, but shared the news verbally, as was the norm. He also did not provide a receipt for Shabalala as proof that the money was received. His preoccupation was with dispersing the money for the immediate needs of the party ahead of the big event.

“I authorised the utilisation of the funds for various purposes related to the KwaZulu-Natal ANC provincial conference that was held between the 20th and the 22nd of June 2008.”

He did not retain the records of what was spent, and where. “They are with the ANC. No ANC treasurer can take away the records when they leave office,” he said.

But where did he understand the money from Shabalala to have come from, commission chairperson Deputy Chief Justice Raymond Zondo asked. In his response, Mabuyakhulu said Shabalala had first indicated in April, three months before donating, that he was involved in raising funds for the conference.

“In light of being told in April, when you did receive it, you could not have thought it was coming from his pocket. You had to have thought that it was part of the money he had raised,” Zondo put to him.

Mabuyakhulu agreed: “Mr Shabalala would have indicated or intimated to me that he was responding to the call that we were making to the ANC. At that stage he would not have indicated that there was already money, as I would recall.”

Evidence leader Advocate Garth Hulley further put to Mabuyakhulu that White’s conclusion, contained in the report he finally produced for the NPA in 2014, was that he concocted the donation story to help protect Shabalala, seeing as he could not produce proof that there was indeed a donation to the ANC.

“Mr White must come and produce his own evidence ... why would I assist Mr Shabalala? For what benefit, and for what purpose?” Mabuyakhulu responded.

“I flatly deny, Mr Chairman, that I ever played any role in assisting anyone in this instance. All what I reported was a factual situation that I received a R1-million donation.”

Shabalala declined to respond to a directive by the commission to provide his version of events, citing a threat to incriminate himself if he did so.

Mabuyakhulu also denied White’s finding that the only reason that criminal charges against him – as he was also MEC of local government at the time, and his health counterpart, Peggy Nkonyeni – were dropped, was because of political interference in the case. Investigators in the case always feared this would happen, White said in his evidence in 2020, and it was the reason his team started building their investigation from the bottom up, to avoid scuppering a successful prosecution of political heavyweights who might be alerted early on.

“What was this interference, where did it come from, who interfered with the NPA process?” asked Mabuyakhulu. The case, he said, had cost him his political career.

“For the last 12 years, I have endured character assassination and had my dignity impugned due to the unfounded allegations that were caused by my unlawful arrest in the Intaka matter. When you search my name on the internet, I’m referred to as one of those who were arrested in the amigos case.”

The case is dubbed ‘amigos’ because of how those involved allegedly referred to each other, and also relates to the heritage of Intaka’s director, Gaston Savoi, who is of Uruguayan nationality but based in Cape Town. It is one of the longest corruption cases in South African courts.

A total of 23 suspects, 18 of them natural persons, were indicted in 2010 on corruption, racketeering and fraud charges. Savoi was among them, as was Shabalala. In 2018, charges against Mabuyakhulu and Nkonyeni were withdrawn for lack of evidence.

In the same year, Mabuyakhulu was elected to his current position in the ANC, from which he has stepped aside in response to a decision of the party’s NEC in March directing all party leaders implicated in wrongdoing to do so. The wrongdoing in question is unrelated to the amigos case, but has to do with alleged impropriety during his tenure as economic development MEC.

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