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Zondo final report – Zondo wants former DG charged for corruption in asbestos “debacle”

The state capture commission chairperson, Chief Justice Raymond Zondo, wants former National Department of Human Settlements director-general Thabani Zulu to face corruption charges for his receipt of R600 000 in the form of a deposit for a vehicle from businessman Edwin Sodi in 2015. This is recommended in the commission’s latest report looking into the Free State asbestos eradication project that is currently the subject of a criminal trial. He has referred to the project as a “debacle” that should never be repeated.

Zondo poked holes in the versions of both Zulu and Sodi with regard to the payment, towards a R1.3-million Range Rover, at a Ballito dealership in December 2015. The figure was uncovered by the commission’s investigators during efforts to follow the money from Sodi’s company, Blackhead Consulting, which formed one half of the joint venture that secured a R255-million contract from the Free State human settlements department, to identify and remove all asbestos roofing on houses in the province’s townships.

The department had no budget for the project, and motivated instead for National Treasury Regulation 16A to be invoked to get funding from the national purse. The regulation provides for a government entity to use a service provider previously contracted to another entity on the basis of that service provider being the only one qualified in the field, or if the project requiring funding is an urgent need. For this to be approved, Zulu would have had to be convinced of its legitimacy. The commission, however, has found the project to have been a sham that was merely meant to help enrich a number of individuals, with no benefit to the province.

“It is recommended that the National Prosecuting Authority gives serious consideration to instituting a criminal charge or criminal charges relating to corruption or any other applicable crime of offence against Mr Thabani Zulu for his arrangement with Mr Edwin Sodi and/or Blackhead Consulting to be paid an amount of R600 000 by Mr Edwin Sodi and/or Blackhead Consulting,” writes Zondo in the report.

The broad version that both men – who are currently on trial in the criminal matter – brought forward was that Sodi’s payment to the dealership was to offset a debt he had incurred from Zulu’s TZ Lounge, an entertainment establishment in Pietermaritzburg, over time. He claimed to have taken alcohol to the value of R604 000 over a period of six months, on occasions that he would be travelling from Gauteng to KwaZulu-Natal, either to his holiday home in Zimbali or to visit his son at a boarding school in the area. Zulu’s version corroborates that of Sodi, adding that he did not keep record of amounts owed by the businessman for the alcohol as he ran his business in an informal manner.

But Zondo was not convinced, and placed in his report several inconsistencies with the details shared by the two, and the legitimacy of their version.

“That Mr Sodi had made payment of the sum of R600 000 out of his own banking account to SMD Trading CC to enable Mr Zulu to purchase the Range rover was not initially revealed by either Mr Sodi or Mr Zulu in their affidavits or statements to the commission investigators and only emerged once

both were questioned about what had been discovered from Mr Sodi's bank statements and SMD," he writes in the report.

"Initially, Mr Sodi gave no explanation to investigators of this payment of R600 000, telling the commission that 'the question was not posed to me'.

"In his second affidavit, Mr Sodi confirmed that this payment was made by himself to SMD dealership in Ballito...from time to time he would visit the social venue known as TZ Lounge...it was also convenient for him to 'replenish the stock at my Zimbali home with liquor and soft drinks'...at the end of 2015 Mr Zulu informed Mr Sodi that 'I had accumulated a bill of around R600 000' and enquired with Mr Sodi when he intended to settle the bill as he, Mr Zulu, was about to purchase a vehicle."

The potential conflict of interest on Zulu's part should have also been a matter of concern, added Zondo, considering their claim that they met in 2001 and developed a friendship over time. Later, at the time that the head of the Free State department of human settlements, Nthimotse Mokhesi, sought Zulu's approval for funding for the project – for which the province had no budget – Zulu would potentially be unlocking the opportunity for his friend's company.

"It is notable that on his version Mr Zulu saw no impropriety in agreeing to Mr Mokhesi's proposals concerning Blackhead notwithstanding that he was both a supplier of alcohol to Mr Sodi and considered that they were friends."

According to the commission, Blackhead was to make close to R90-million from the total contract value, following a two-way split with joint venture partner Diamond Hill, and after several payments emanating from Mokhesi's department's payment to several individuals and entities.

The explanation offered by Mr Sodi and Mr Zulu is simply false and dishonest, writes Zondo, for the following reasons, among others:

- TZ Lounge is a sports bar operating out of a township in Pietermaritzburg but Sodi claims he could take expensive brands of liquor on credit as he travelled to Zimbali.
- The two men offered inconsistent versions of how the liquor would be transported – Sodi said he would take it in his car, while Zulu stated in his affidavit the R600 000 was for goods and services delivered to Sodi.
- Zulu claimed he had a credit card facility with FNB, but could not provide proof of this to the commission. Furthermore, he speculated that he may have recorded debt incurred by Sodi in "diaries" that he has never produced to the commission.
- Although Zulu provided proof to the commission of his declaration of assets as is required in his public service capacity, he made no mention in the document that part of the payment towards a Range Rover in his name came from an entity doing business with government.

"The only conclusion which the commission can reach is that the story of the indebtedness of Mr Sodi to Mr Zulu in the amount of R604 000 by reason of purchases of alcohol at the TZ Lounge is pure fabrication. That fabrication is tendered on a haphazard and facile basis to attempt to explain the payment by Mr Sodi of R600 000 to the motor dealers on behalf of Mr Zulu."

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