



DEPARTMENT OF PUBLIC TRANSPORT, ROADS AND WORKS
DEPARTEMENT VAN OPENBARE VERVOER, PAAIE EN WERKE
LEFAPHA LA DIPALANGWA TSA SETJHABA, DITSELA LE MESEBETSI

UMNYANGO WEZOKUTHUTHA WOMPHAKATHI, EZEMIGWAQO NEZEMISEBENZI

PER HAND/FAX/EMAIL

Enquiries : Sibusiso Buthelezi
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ATTENTION: OFFICE OF THE PREMIER

23 June 2009

The Honourable Premier

Re: Buthelezi's preliminary response to Resolve Group investigation

1. Thank you for giving me an opportunity to reply to the report by the Resolve Group.

Request for extension

2. My reply is very limited due to time constraints and as the volume of the report consisting of 5 arch lever files. I therefore request the opportunity to give a detailed response within 6 weeks from date of meeting with the Premier on 22nd June 2009.

PART A: Investigation pertaining to MEC

3. I do however wish to express the following preliminary concerns:
4. The investigator did not investigate all the allegations I made against MEC Jacobs, which includes but is not limited to:

- 4.1. Obstructing the bus transformation project.
- 4.2. North west subsidies which caused judgement in the sum of R104 million.
- 4.3. Promotion of Ms J. van Antwerpen without my input.
- 4.4. MEC's relationship and appointment of Dornier.
- 4.5. The MEC's using the media to raise grievances.
- 4.6. The MEC's terminating Ebeneza's services without cause.
5. This is patently unreasonable as the investigator was given the opportunity to investigate new allegations made by the MEC against me in his statement of November 2008, made available to me only on the 15th April 2009.
6. If the investigator does not investigate the allegations made by me on 25th May 2009 against the MEC, it constitutes unfair discrimination against me. I therefore respectfully request that the investigator be given the opportunity to investigate the allegations made by me in my statement of 25th May 2009 in full.
7. Investigation of Kempton Park allegations against MEC must be concluded
 - 7.1 The investigator advises in paragraph 4.4.1 found on page 26 of his report that it is unable to conclude it's investigation regarding the MEC and allegations re: Kempton Park as it is waiting for a reply from the MEC.
 - 7.2 It further states that the MEC undertook to reply by 5 June 2009 but that the MEC failed to do so and requested an extension subsequently.

7.3 It is now already 19th June 2009 and the MEC has at date hereof not replied. I therefore submit that the Kempton Park investigation must come to an end and the Resolve Group should be instructed to finalise it's investigation with or without the MEC's reply.

8. Remainder of investigation against MEC must be conducted

8.1. The Investigator in paragraphs 6 – 6.4.1 in it's report which can be found on pages 297 – 303 acknowledges that it still needs to investigate my allegations re: the MEC and PWC, his turnaround strategy (TAS), MEC management dash board, PWC and Ukuba management scandal.

8.2. The investigator advises that although the MEC undertook to reply by 5th June 2009 no reply has been received at date hereof being the 19th June 2009. The investigation needs to be finalised with or without the MEC's reply.

A summary of some of the complaints Buthelezi made against the MEC, the investigator's findings and Buthelezi's response

9. As the Premier is aware, Mr Harris was appointed by the former Premier of Gauteng, Mr Mbhazima Shilowa to investigate allegations made by myself against the former MEC of Public Transport, Roads and Works, Mr Ignatius Jacobs("the MEC") in my e-mail of 18 September 2008("the e-mail").

10. The central allegation contained in my e-mail was that the MEC had issued instructions to various officials of the Department that had the effect of undermining my authority as the accounting officer of the Department.

11. In support of my allegations, I submitted my founding affidavit as well as supporting documentation to Mr Harris.

12. The MEC submitted his further responding statement, purportedly contesting my version.
13. The MEC however also made certain allegations against me in his response that I considered libellous and unfounded.
14. I raised objections to the allegations made by the MEC on the grounds that they were irrelevant to the issues that Mr Harris was instructed to investigate.
15. Be that as it may, I provided responses to his allegations wherever possible and challenged him to provide clarity or evidence where I felt that he had not set out the issues in sufficient and clear detail.
16. I have however been disappointed that the MEC did not provide any concrete evidence to lend support to his allegations against me.
17. I am therefore of the view that Mr. Harris' findings could have been different had the MEC provided concrete evidence as stated above. Against this background, therefore, I am of the view that the generality of Mr. Harris' findings are based on inadequate information and should therefore be read against this backdrop.
18. I therefore in the paragraphs that follow seek to clarify and place in context some of the issues that I believe would have benefited Mr. Harris' investigation and findings.

THE FINDINGS

19. In the paragraphs that follow, I shall briefly restate some of the allegations made by myself, state the finding and provide my response thereto.

Allegation 1

There is an informal complaint against a DAC member and spouse

20. The substance of this allegation was that I had received complaints from certain contractors who had complained to me that they were being bullied by some members of DAC into making payments aimed at ensuring that their tender bids would succeed.

Finding

21. Mr Harris has found that this allegation is unsubstantiated on the basis that I was *“unable to produce any corroboration to support this serious allegation”*.

My response

22. I reiterate my earlier allegation that I was indeed approached by some contractors who complained to me that they were being bullied by some DAC members to pay bribes. The difficulty that I have had with producing corroborating evidence on this particular allegation is the understandable reluctance by some of these contractors to come forward to provide corroborating evidence. This reluctance is completely justifiable in my view because these contractors fear being victimised or souring relations between the Department and themselves.

It should be noted that these contractors rely for the survival of their businesses on the good relations that they have with the Department and the continued support that they expect to get from the Department. It is therefore not unthinkable or unreasonable for them to harbour fears that their businesses might suffer deleteriously were they to come forward with evidence to support their allegations. I believe that this is a classical case of fear of victimization, real or perceived. It is critical to note that one contractor has approached the current Premier with this allegation, indicating that there is at least some vestige of truth to my allegation,

which I believe will be fully substantiated once the investigation is completed.

The Premier did not summarily dismiss the allegation as the twisted imagination of some disgruntled contractor. The Premier, upon applying her mind to the allegation, has referred the matter to me for further investigation. This indicates that the Premier considers the matter sufficiently grave as to warrant further investigation. My alleged failure to provide supporting evidence in this regard therefore should not be construed as conclusive evidence that there is no supporting evidence in respect of this allegation. It should also be noted that least two of the contractors are still committed to come forward when the inquiry gets beyond this internal investigation. I therefore still stand by this allegation.

Allegation 2

23. *“The MEC meets with senior managers of the Department in private meetings and ‘ during such meetings he instructs them to meet with potential contractors to discuss contracts without prior tenders being issued or advertised and to grant contracts without following due process”*
24. The thrust of this allegation was that the MEC had a tendency to call senior managers into his office and issue what I considered unlawful instructions in respect of tenders. I specifically cited the following examples:
 - 24.1 Rissik stree Post Office;
 - 24.2 Kempton Park; and
 - 24.3 g-Fleet

Finding

25. Mr Harris has made the following finding:
“Having regard to the relevant sections of the Public Service Act, 1994 and the Regulations thereto as well as the Delegation of Powers for the

Department, it was found that the MEC is entitled to meet with senior managers and to issue instructions to them, provided that these instructions are not irregular or unlawful. The allegation was therefore found to be unsubstantiated.”

My response

26. I have not any stage stated that the MEC should not meet with senior officials of the Department. The crux of my complaint was that the MEC, in these meetings, issued instructions that I considered irregular and unlawful. I find it extremely odd that Mr. Harris has concluded that my allegation was unfounded without having made reference at all to the issue of whether or not irregular or unlawful instructions were issued in these meetings. In his finding, Mr Harris clearly states that the MEC is entitled to meet with senior officials of government **“provided that those instructions are not irregular or unlawful (Own emphasis).**

This is the heart of my allegation i.e. that the instructions were irregular and unlawful. It is unfathomable why Mr. Harris has elected to focus on only one aspect of my allegation without canvassing the key point of my allegation relating to the unlawfulness or irregularity of the instruction. His finding is based only on the fact that MEC has a right to meet with senior officials. As such, Mr Harris has misapplied his mind to my allegation. I therefore reiterate my earlier statement that the MEC has in fact issued irregular instructions to Departmental officials. I further reiterate my complaint that these instructions undermined my authority as the HOD and that this interference continued unabated until the MEC's last day in office.

It is my submission that the Public Service Act only confers to the MEC to powers **only is as far as they relate to the organizational structure.** The substance of these private meetings convened by the MEC involved issues of procurement which are governed by the Public Finance

Management Act (PFMA), thus all these meetings were irregular and unlawful.

Allegation 3

27. *“The MEC had given an unlawful and irregular instruction to Paul Maseko ‘to allow investors from Kuwait to develop the Rissik Street Post Office and the Vaal Dam. Again, this instruction was without a tender being issued or following standard procedures.’”*
28. The purpose of the various statements by various officials that I attached to my answering statement was to demonstrate that my allegations were not a figment of my imagination. In my founding affidavit, I attached the various statements by various officials as evidence that the MEC had a *prima facie* case to answer. I stated clearly that the purpose of these statements was to confirm that the meetings that I considered to have been irregular had in fact taken place. In his finding, Mr. Harris states that there is a dispute of fact as to whether the MEC did inform me in advance of the meetings that took place.

Mr Harris however proceeds to make a finding that the MEC did not act improperly. I do not understand how Mr Harris can conclude that the MEC did not act improperly when on his own version he has stated that there is a dispute of fact and that it would have been proper for me to have been informed of the meeting. I therefore believe that Mr Harris’ finding is premature as the allegation warrants further investigation. Only then will we be able to conclude whether the MEC acted improperly or not.

Allegation 4

g-Fleet and work allocation

29. The thrust of this allegation was that the MEC had approached Mr Sam Jafta to make a plan and accommodate coloured comrades as there was an expectation from these comrades as he was a coloured MEC.

Finding

30. Mr Harris has found that there is insufficient evidence to corroborate the allegation made by Mr. Sam Jafta in relation to unlawful or irregular behaviour of the MEC and Mr van Rooyen and that the allegation is therefore unsubstantiated.

My comment

31. Mr Harris, in arriving at this conclusion, states the following on page 310 of his report: "It appears that it was Messrs Samuels and Beck who were offering an opportunity to G-Fleet to participate in their project and not vice versa. It escapes my comprehension how Mr. Harris can conclude it the said gentlemen were the ones offering a business opportunity to G-Fleet and not vice versa. The question is for what purpose did they make the proposal? I do not think it was a charitable proposal. It is irrelevant in my view whether Messrs Samuels and Beck had approached the MEC or that he had approached them.

The fact of the matter is that the MEC instructed Mr. Van Rooyen, the Chairperson of DAC, to facilitate a meeting with the said gentlemen, who had a business proposal for a government agency of which the MEC was an executive authority. The MEC has not explained how he envisioned these gentlemen's involvement playing itself out, what the exact nature of this so-called opportunity was and how issues of open, fair, transparent procurement procedures were to be complied with. It seems to me that where there is a dispute of fact, Mr. Harris' findings benefit the MEC.

Allegation 5

32. "The MEC meets with senior managers of the Department in private meetings and ' during such meetings he instructs them to meet with potential contractors to discuss contracts without prior tenders being issued or advertised and to grant contracts without following due process"

Finding

33. Mr Harris has found that it was within the prerogative of the MEC to conduct the meetings.

My comment

34. I have stated previously in my founding statement and herein that I do not question the MEC's right to meet with senior officials of the Department. I do not therefore comprehend how Mr. Harris can make a finding on a point that I did not contest, on a point that I in fact volunteered. The finding is any my view a mere restatement of my position. It is the legality or unlawfulness of the nature of the instructions or discussions that I question. I therefore believe that Mr Harris has not addressed my allegation adequately.

Allegation 6

35. Ill-discipline amongst officials of the Department
"Actions emanating from office (sic) of the MEC are beginning to instil an uneasy sense of ill discipline and what can easily amount to insubordination."

The thrust of this allegation was that I had redeployed John van Rooyen from the Chairmanship of DAC to the position of Deputy Chairperson of the B3000K DAC and that van Rooyen's response was to decline what I considered to be a lawful and reasonable instruction.

Finding

36. Mr. Harris has found that van Rooyen's behaviour was inappropriate and deserving of censure.

However, Mr Harris has also found that it was my duty as the HOD to rebuke van Rooyen.

My comment

37. I have noted Mr. Harris' findings in this regard. I do concede that it was my duty as the accounting officer to rebuke van Rooyen.

However, the point that I was making in my submission was that, van Rooyen, by copying the MEC his refusal to be redeployed, evinced absolute impudence to me and the office of the MEC. It would therefore have been proper for the MEC to have raised an objection that would have sent a clear-cut and categorical message to van Rooyen that his behaviour was viewed in a negative light.

The silence of the MEC on this matter, regardless of it having been my duty to have rebuked van Rooyen, amounted to a proverbial Pontius Pilate approach, which was not in the interests of the Department as it served to embolden van Rooyen's insolence.

Allegation 7

Impophoma

38. The thrust of this allegation was that the MEC had not deemed it appropriate to offer guidance on the leadership issues at Impophoma. The gravamen of my allegation was that the MEC had failed to discuss the matter with me but had deemed it appropriate to discuss it with Mr. Sam Jafta on the basis that he had "sensed" tension at Impophoma between Mzwandile Kibi and Mr. Fred Mochothli.

Finding

39. Mr. Harris' finding was that I had not substantiated my allegation.

My comment

40. I stated in my founding statement that I had solicited the MEC's advice on the leadership issues at Impophoma on various occasions but that the MEC had not once proffered any suggestions or guidance in that regard.

I specifically questioned how the MEC could have made suggestions regarding the leadership issues at Impophoma and proceeded to make specific proposals to have Mr. Mochotlhi ("Mochotlhi"), the Chief Operations Officer, removed on the basis of, on his own version, having "sensed tension".

I reiterate that the leadership issues at Impophoma should have been discussed with me as the accounting officer of the Department even if a concession were to be made, which is denied, that the MEC had authority to unilaterally transfer Mr. Mochotlhi as stated by Mr. Harris.

The issue to me was not one of authority per se but one of good corporate governance. It is not proper for the MEC to reshuffle the Department without involving the accounting office of the Department. This would be a violation of the Public Finance Management Act ("PFMA") which confers certain responsibilities on me as the accounting officer of the Department.

I have further noted Mr. Harris's statement that there might be merit to the MEC's submission that the removal of Mr. Mzwandile Kibi ("Kibi") from his position at Impophoma amounted to an unlawful dismissal. It escapes my comprehension how there might be merit to such a conclusion when Kibi's employment contract has never been terminated and he still works for the Department. Kibi's redeployment to my office was lateral movement and I therefore find Mr Harris' finding inaccurate. I deny that Kibi was demoted.

Allegation 8

41. Intimidation by HOD

"The HOD was informed that at a meeting with the then MEC of Finance and Economic Affairs, Mr Paul Mashatile and Mr David Makhura, the

Chairperson and secretary of the ANC in Gauteng, the MEC had alleged that 'I had intimidated Mr Paul Maseko, the Chief Executive Officer of Emoyeni Trading Entity into making a statement in support of some of the allegations contained in the e-mail.

Finding

42. Mr. Harris has found that there is insufficient evidence to corroborate this allegation.

My comment

43. I did not in my submission state that I was present in a meeting with Messrs Mashatile and Makhura where it was said that MEC Jacobs had alleged that I had intimidated Mr. Paul Maseko.

I merely made the allegation that I had been informed that the MEC was alleged to have made this allegation in a meeting at which both Messrs Mashatile and Makhura were present.

I accept Mr. Mashatile's statement that he has no recollection of such a meeting or the MEC having made such statements. I therefore accept the finding.

Allegation 9

Threats by HOD

44. *"A person purportedly acting on my instructions had threatened to kill him or his family if he did not lift my so-called suspension. I even received a letter from the MEC's attorneys requesting me to refrain from threatening the MEC"*

Finding

45. Mr. Harris has found that there is no shred of evidence to support the allegation that I had threatened to kill the MEC.

My comment

46. While I am not in the least surprised by Mr. Harris' finding, I however find it extremely odd that Mr. Harris has not recommended any action nor has he voiced any concern on the MEC's defamatory and serious allegations against me.

I believe Mr. Harris should have made a finding regarding the appropriateness of the MEC's behaviour. I am extremely disappointed by his silence on this unethical behaviour. His silence on this issue is an issue of great concern to me and raises questions on Mr Harris' objectivity on this matter.

It is common cause that the MEC made these allegations and in my view caused these allegations to be published in the media, made a false statement to his attorneys as there was no iota of evidence to support this allegation. Yet Mr. Harris feels that the MEC's actions are not deserving of any censure.

Allegation 10

Van Rooyen and DAC submissions

47. "Allegation re conduct of Mr van Rooyen in relation to DAC submissions"

The thrust of this allegation was that Mr. Mollo Molefi was called to Mr. Van Rooyen's office to make available DAC submissions to him prior to tabling at DAC.

Finding

48. Mr. Harris has found that there is insufficient corroborating evidence by the parties.

My comment

49. Mr. Harris' finding is noted. I am however baffled by Mr Harris' assertion that van Rooyen's email lends credence to his version of events. I do not see how his e-mail would not seek to enhance his version, particularly as it was written on 25 August 2008, **two months after Mollo's e-mail**. Mr Harris does not offer any reason for his submission why and in what way the e-mail by van Rooyen lends credence to van Rooyen's version. At best, van Rooyen's version is revisionist. It is of great concern that Mr Harris has chosen to ignore serious misdeeds on the part of van Rooyen that happened during June/July and choose to make a finding on the basis of an August email.

PART B: Investigation pertaining Buthelezi

50. It is not my intention to answer each and every allegation made in the Resolve Group report.
51. For sake of brevity I only reply to allegations which I believe necessitates a reply from me. Should the Honourable Premier however wish me to elaborate on any issue I will gladly do so.

Allegation - Jabulani District Hospital

52. *"The HOD breached his performance agreement in that he failed to furnish the MEC with regular progress reports relating to the Project, despite a direct instruction to do so."*

Finding

53. Mr. Harris has found that the MEC's allegation is unsubstantiated on the basis of lack of corroborating evidence.

However, Mr Harris has found that I breached my 2008/09 performance agreement which obliges me to timeously alert the MEC of any emerging factors that could preclude the achievement of any performance agreement undertakings.

My comment

54. I have noted Mr Harris' finding. I however deny that I did not alert the MEC of factors that were precluding the achievement of the Project.

I reiterate my earlier submission as contained in my founding statement that I did on several occasions report to the MEC service delivery challenges that pertaining to the Project and that the MEC did not provide any assistance or guidance to me in his capacity as the Executive Authority.

Allegation - Project monitoring

55. *"The HOD failed to monitor progress of the Project and only began taking steps to salvage the service delivery challenges faced by the Project in July 2008."*

Finding

56. Mr. Harris has found that the MEC's allegation is unsubstantiated on the basis that I had over a two-year period intervened in an attempt at resolving Project challenges.

My comment

57. I have stated in my founding statement and reply to the MEC's responding affidavit that I intervened on various occasions in an effort to resolve Project challenges as I was aware of the criticality of meeting Project deadlines. This was the context against which I requested the MEC to assist by providing guidance as well.

Allegation - Project payments

58. *"The authorisation of payments made in respect of the Project requires further scrutiny to determine the extent to which it met the requirements of the Public Finance Management Act (PFMA)"*

Finding

59. Mr. Harris has found that there was no violation of the PFMA as the Department complied fully with its own relevant financial procedures.

My comment

60. This finding is noted and it is regrettable that the allegation was merely intended to denigrate me by casting me as a corrupt official without any vestige of redeeming evidence.

Allegation - Overturning of DAC decision.

61. *"In overturning the decision of DAC and unilaterally appointing the Ilima/Tau Pride JV, the HOD had acted contrary to a legal opinion submitted by the Legal Services Chief Directorate and in contravention of various provisions of the PFMA, including S38(1)(b) thereof."*

Finding

62. Mr. Harris has found that the reasons to motivate for deviation in the procurement procedures were valid and reasonable in the circumstances and that there was no violation of the PFMA as there were cogent reasons for such deviation.

My comment

The finding is noted and is consistent with all my submissions that I did my best to ensure successful implementation of the Project. It is unfortunate that the MEC deemed it proper to lampoon my efforts on this Project.

63. Redeployment of Kibi. The allegations are contained in pages 40 – 48 and pages 314 –316.
64. I do not agree with the Investigator's contention that the MEC could legally redeploy Mochotli but that I could not redeploy Kibi as my action would constitute an unilateral demotion but that the MEC's action would not.
65. It is common cause that Kibi and Mochotli could not work together and that one of them had to be redeployed.
66. I refer to the investigator's quote in his 4th paragraph on page 45 of his report and I quote : '*The MEC states* I certainly did not suggest that Fred (Mochotli) be removed from Impophoma'.
67. The affidavit of Mr Jafta attached to the investigators report as **Annexure 6** states that he did receive an instruction from the MEC to find space for Mochotli elsewhere.
68. The investigator finds the MEC's version improbable and accepts Jafta's version. I summarised my complaints about the MEC's meeting with Jafta

and Mpanza in paragraph's 150.2.1 – 150.2.20 in my statement of 25/5/09. I clearly stated that I was aggrieved by the fact that the MEC had a meeting with Jafta and Mpanza to discuss his intentions to redeploy Mochotli. That the MEC meets senior managers in private meetings and discusses matters with them which he should not, and which he is obliged to discuss with me and that same serves to undermine my authority. I believe that the investigator either glossed over my complaint or did not understand the heart of my complaint.

69. This issue of undermining or obstruction of my authority was also the heart of my complaints as summarised in paragraphs 4.1, 4.2, 4.3, 4.5, and 4.6 above.
70. The position of state officials differ from that of non-state officials in that a state official may be redeployed without there being prior consensus. Mr Kibi was not demoted, he was just re-assigned. To date hereof Mr Kibi has not lodged a grievance about his redeployment. It is therefore uncertain why the investigator is concerned that he may do so. His salary and his status has not been changed.
71. I do not need the MEC's approval to redeploy state officials. The MEC has also never taken a stand that he gave me an instruction to redeploy Mochotli and that I acted against his advise. It is therefore improper of the investigator to imply that I did not act within the MEC's wishes and that I should in this one isolated incident have requested the MEC's prior approval before redeploying a state official.
72. I find the investigator's behaviour unnecessary and biased. The investigator finds the MEC's version vague and improbable and still bends itself backward in favour of the MEC to find me guilty of a vague complaint.

73. The Investigator found that Buthelezi did not alert MEC of factors precluding achievement of project in pages 81-85 of his report
74. The investigator sometimes in the investigation takes the cautious approach so that if there is a dispute without external evidence to corroborate either party's version that is does not prefer one version over the other, which I submit is correct.
75. In this regard there is a dispute. I was able to show evidence of monthly reports, which I sent to the MEC. The investigator rejected same on the basis that it has no evidence that same was received by the MEC. I humbly submit that this conclusion is incorrect, and that the investigator seems to take a more cautious approach with allegations against the MEC, but is quick to make adverse findings against me without corroborative evidence. I do however note that the investigator does not believe that this warrants disciplinary action.
76. The investigator finds that in the Jabulani second contract with Ilima, Buthelezi did not first obtain Ilima's tax clearance certificate. Pages 104-107 and 363.
77. This is incorrect. Prior to Ilima being appointed in the 2nd Jabulani Contract Ilima's tax clearance certificate was on file. Proof thereof is attached as Annexure A1 together with proof that SARS only cancelled the tax clearance certificate on 28/08/08. I attach hereto Ashira's report dated 22nd May 2009 as Annexure A2 which attaches a letter from SARS dated 21 May 2009. It confirms that at date of entering into iLima's 2nd Jabulani contract its tax clearance was valid. I humbly request that the investigator adapts it's report accordingly.

Payments to Ilima

78. *“Payments had been made to Ilima either as a partner to the first JV or as part of the second JV, despite the fact that the HOD had become aware of the disintegration of the first JV and after he had become aware of Ilima’s tax issues. This conduct is an indication of gross negligence and illustrates the Hod’s failure’ have taken effective and appropriate steps to prevent unauthorized, irregular, fruitless and wasteful expenditure within the meaning of the PFMA’. Further that that there is no indication that the HoD took steps, in writing or otherwise, to report such expenditure to the relevant Treasury and/or Tender Board/DAC.”*

Finding

79. Mr. Harris has found that this allegation is unsubstantiated.

My comment

The finding is noted. It is however unfortunate that Mr Harris has ignored the fact that no payments were made as part of the 2nd contract, evidence of this fact can be found in **Annexure A3**, an impression is created that such payments were made. This for me points to poor workmanship on the part of the investigator.

80. Appointment of Maziya, Tsiya and Tau Pride/Moteko

“Following the cancellation of the second Ilima contract, the HoD appointed Maziya, Tsiya and TauPride/Moteko to complete the Project, again without following due process and in contravention of the legal opinion as referred to above, Government Policy and the provisions of the PFMA”

Finding

81. Mr. Harris has found that this allegation has been substantiated.

My comment

I disagree with this finding on the basis that a decision to deviate is a judgment call on the part of accounting officers. It is easy with hindsight to say whether a particular decision was prudent or ill-advised.

At the time a decision to deviate is made, the HOD has take into account the exigencies of the time, apply his mind and make a decision that he considers to be in the Department's interests.

The law does not require that such decisions ought to be "correct". A decision to deviate needs to be well-motivated given the particularities of the time and properly recorded. The decision to appoint Maziya through a deviation procedure was in my view justified, well-motivated and in accordance with Treasury Regulations. Regardless of the ensuing issues, there was no irregularity in respect of this appointment. As evidenced by the attached **Annexure A4**, this was a good decision, because of the progress that has been registered on site as a result of my decision.

Adverse findings that the investigator made in it's report relating to TT4 in pages 124-190 and 363 of it's report.

82. The investigator did not properly apply it's mind to the reason for the appointment of TT4.
83. It is difficult to understand TT4's initial role without the investigator fully investigating and understanding the MEC's TAS and PWC's failure. Investigation of TT4 without investigating PWC's failure with TAS therefore gives a lob sided and unfair result.

84. TT4 was appointed to do a performance audit on PWC's TAS which was a dismal failure. The appointment of TT4 was urgent as over and above the performance audit it would make recommendations to help the Department to obtain an unqualified audit.
85. I had already went through a process of not being able to achieve targets as PWC was unreliable.
86. One can therefore not take an armchair approach with TT4. As correctly pointed out by the investigator some of the TT4 members already had a history and sound track record with the Department. I chose to appoint trustworthy, competent and reliable service providers whom were able to work by my side rather than go on an open proposal call for advisors, with whom I may not have been able to produce tangible results.

"The HoD has contravened s (38) (1) (a) (ii) of the PFMA in relation to the appointment of the TT4 consultants and in relation to the appointment of Ms Gambu alternatively Ekuthuleni Consulting CC."

Finding

87. Mr.Harris has found that the allegation by the MEC is substantiated.

My comment

88. This finding is particularly baffling. Mr Harris has stated in his findings that I appointed TT4 by invoking Treasury Supply Chain Management Practice Note 6 of 2007 and appointed it by deviating from normal competitive bidding procedures of the Department.
89. In the next paragraph, Mr Harris states the following:

“It is our view that the irregular and unlawful appointment of TT4 would amount to a contravention of section 38(1)(a)(iii) in that the HoD failed to maintain an appropriate and provisioning system which is fair, equitable, competitive and cost effective”

90. On the basis of this statement, Mr Harris concludes that my conduct amounted to financial misconduct.
91. I deny any financial misconduct on my part. Mr. Harris has not demonstrated how he reached the conclusion that TT4's appointment was irregular and unlawful. Mr Harris states that TT4 was appointed through deviation procedures and in accordance with Treasury Supply Chain Management Practice Note 6 of 2007.
92. If TT4's appointment was effected through these procedures, in what way would such appointment have amounted to an irregular and unlawful appointment? I am amazed at the zeal with which Mr Harris has arrived at this conclusion without adducing any evidence of illegality in respect of TT4's appointment. Mr. Harris has taken it as a given that TT4 was appointed irregularly and this in my view betrays his lack of objectivity.
93. Mr Harris states that he is not satisfied with the memorandums drafted in terms of National Treasury Practice note 6 of 2007/ 2008 Re: appointment of Ms Gambu of Ekuthuleni as member of TT4 and Appointment of Ms Maswanganyi of ACRESA as member of TT4.
94. The said treasury regulations is quite clear. The memorandum must be sent to the Treasury and the Auditor – General. Only if they are dissatisfied they can take steps. It is therefore not for the investigator to consider whether the Auditor -General applied it's mind correctly or not, but merely to see if protocol was complied with which it was. The investigator does concede that this is correct and that same must be referred to the Auditor –General if the premier believes that it is warranted.

95. The investigator notes that it does not have the relevant memorandums substantiating the deviations for the remaining TT4 members, which I will have to obtain. I therefore need the 6 week period to inter alia obtain documents as requested above.
- 95.1. The investigator also has the following documents, contracts relating to;
- 95.2. Thandi Senoamadi
- 95.3. Tsosanang
- 95.4. ACRESA
- 95.5. LMT
- 95.6. TT4 Charter, which is a memorandum of agreement with the original TT4 members.
96. It is not my personal role to make sure that proper records are being kept. I further object to the investigator's stance that if it does not have proof of the documents that it assumes that the treasury regulations were not complied with, or that the documents then do not exist. Especially if the investigator in its report took notice of the fact that the Department's filing system is not what it should be and that it was difficult to access certain documents. I also do not accept that I advised that Ashira does have a contract with the Department, but that the investigator rejects it because it does not have it.
97. I also find it very naïve of the investigator to believe that state organisations do not generally appoint external consultants. The most sophisticated governments in the world use consultants to help it to fulfil its duties and to achieve its objectives. The investigator states in the

alternative that even if one accept that TT4 was originally necessary, why did the state not phase them out so that the consultants are no longer necessary in future. It is unrealistic to believe that the Public Sector will ever come to a stage where it no longer needs assistance from consultants in the private sector. Each of the TT4 members are unique and they deliver sterling services to the Department and they cannot be currently replaced or phased out.

98. I believe that the investigator did not apply it's mind correctly to TT4. It simply had to look at what TT4 is entitled to charge and do a performance audit on the work it did, to see if the fees charged was proportionate to services delivered.

Payments to TT4

99. "There was no need for the appointment of TT4 whom in total received an aggregate of R17 542 873.79 during the period April 2008 to October 2008 and that the appointment of the TT4 consultants constitutes a contravention of s38 (1) (b) of the PFMA, having regard to the scope of the work undertaken by them".

Finding

100. Mr. Harris has found that all companies within TT4 produced and completed substantial work fro the Department.

He has further stated in his findings that:

"Given the technical nature of the majority of the documents quality, we have not formulated a view regarding the quality of the deliverables produced"

101. Having declared that he is not au fait with the technical nature of the work performed by TT4, Mr Harris proceeds to say that he is concerned that an amount of R20 million had been paid to TT4 over a seven month period.
102. Is it not counterintuitive for Mr Harris to state that he does not grasp the intricacies of the work performed but proceed to say the payments were excessive? On what basis, given Mr. Harris' self-confessed lack of understanding of the work performed, would he have arrived at this conclusion?

“Section 38(1) (c) (iii) in relation the payments (sic) to TT4 was breached in that the working capital in the Department has not been managed efficiently and economically”

Finding

103. Mr. Harris has stated that he cannot make a finding on this allegation as there is no evidence to indicate that the payments to TT4 adversely impacted the working capital of the Department.

My comment

104. It escapes my comprehension why Mr. Harris would state that he is unable to make a finding on the basis that there is no evidence to show that the working capital of the Department was adversely impacted. Surely, the finding should have been that this allegation was unsubstantiated? I am therefore of the view that this “finding” is curiously phrased.

Tsosanang

105. *“Even though Ms Thandi Senoamali, representing Tsosanang Project Management CC, resigned from the TT4 consortium/alliance in March*

2007, an amount of R2 180 750.46 was paid to Tsosanang Project Management CC alone since the 20th of May 2008 and up and including 29 August 2008’.

Finding

106. I summarise herein Mr Harris’ findings on this allegation:

- The allegation that payments should not have been made to Tsosanang post their discharge form TT4 in 2008 is unsubstantiated;
- There was no obligation on the part of Ms Senoamali to have disclosed her shareholding in Ekuthuleni and it is therefore found that she and/or Ms Gambu have not acted improperly.
- The Department has granted to Tsosanang a blank cheque to bill for work of an unlimited amount, with very few checks and balances being implemented to ensure that the Department is protected from allegations of irregular and wasteful and fruitless expenditure

My comment

107. I have previously submitted to Mr. Harris a document titled TT4 Charter attached as **Annexure G** to my statement of 25th May 2009. This document operates as a memorandum of agreement between the Department and TT4.

108. This Charter clearly sets out that the TT4 members are allowed to charge R812 per hour. I therefore do not understand how Mr. Harris can be so bold as to state that the Department has given Tsosanang a blank cheque to bill for an unlimited amount. In any case, in the unlikely event that there is no contract between the Department and any consultant, the

Department will be guided by the Department of Public Service and Administration gazetted tariffs.

109. The same Charter clearly stipulates the scope of work to be undertaken. The conclusion by Mr Harris that this clearly defined scope of work is equivalent to a “blank cheque” escapes my comprehension.

Payments to Acre-SA

110. *“Between June 2008 and 3 October 2008, Acre-SA Consulting received payment of an amount of R3 476 394.40 from the Department”*

The thrust of this allegation is that this amount was excessive and unjustified.

Finding

111. Mr. Harris has found that the allegation is substantiated

My comment

112. I repeat my earlier submission that payments to TT4, of which Acre-SA was a member, were perfectly in order and that Mr. Harris has himself stated that substantial work was done but that the work was of a highly technical nature and he was therefore not able to make pronouncements on its quality. On that basis, I submit, Mr. Harris is in no position to provide an opinion on whether the payments to Acre-SA were excessive or not.

LMT Progressive Development CC

113. *“The MEC alleges that the amounts paid to LMT Progressive Developments, and more specifically, to Gcaniphi Khoza, Nonjabulo*

Malinga and Lauretta Teffo, is clearly in excess of the amount permitted by the contract on a monthly basis.”

Finding

114. Mr. Harris has found that the allegation was substantiated.

My comment

115. I have noted this finding, in particular the erroneous excessive payment of R 61 940.00. This was a genuine error and corrective measures will be taken.

Ashira

“Ashira has received payment of the total sum of R8 768.280.89 from the Department from April 2008 up to and including the 28th October 2008.

Ashira was appointed improperly”.

Findings

- A contract between Ashira and the Department has never been signed.
- All payments to Ashira amount to irregular expenditure, for which the HOD must be held to account.
- Payments to Ashira were excessive.

My comment

I deny that all payments to Ashira amount to irregular expenditure on the basis that Ashira was appointed through a deviation procedure.

I reiterate my earlier submission herein that the appointment of Ashira and other member companies within TT4 was well-motivated at the time and was not irregular or unlawful.

Ashira was appointed initially by the MEC himself to participate in the Committee of Inquiry.

Ashira was also appointed by the department as part of its incubator initiative, the evidence of which was supplied to Mr Harris as part of my statement on the 25th May 2009.

116. The investigator in page 137 and 138 of it's statement acknowledges that TT4 delivered substantial work of a technical nature. Further that TT4 completed it's targets to a large degree. The investigation actually proves that TT4 provided a sterling service and that no third party is able to fault it.
117. It is therefore simply not logical to state that although the Department received the benefit of TT4s services that payment to TT4 was fruitless, wasteful and unnecessary expenditure amounting to financial misconduct.
118. The investigator then contradicts itself by stating that TT4's fees were exorbitant and disproportionate. No proof or reason for this allegation was given.
119. The TT4 Charter attached as **Annexure G** to my statement of 25th May 2009 is clearly a memorandum of understanding between the parties and it sets out that the TT4 members are allowed to charge R812 per hour.
120. I am shocked that the investigator makes the bold allegation that the Department has given Tsosanang a blank cheque to bill for an unlimited amount. I believe that this statement smacks of bias.

121. In the unlikely event that there is no contract between the Department and a new TT4 member, the state has rates published in the Government Gazette that will be paid to contractors.
122. If Resolve Group honestly believes that the Department does not need external consultants then that means the appointment of the Resolve Group was a fruitless and wasteful exercise.
123. The investigator clearly misunderstood our consultation and the needs of the Department. More especially as he states that subcontractors should only be appointed for a period of 3-6 months at a time. Further that I allegedly admitted that 3 year contracts are too long for subcontractors . One can only consider the period of appointment of a contractor if you consider the nature of their duties. Surely the department cannot appoint 3 month contractors on a project such as the Gautrain which is a long term project. Surely I could not appoint TT4 on a 3 month basis to assist the Department to obtain a unqualified audit. This is unrealistic.
124. I believe that I am being victimised by the investigator's finding. If I am not allowed to use consultants then no state department should be allowed to use consultants. Disciplinary steps must then be taken against other departments for appointing consultants, and / or for not phasing all consultants out after a period of time. Such a thought is ludicrous and not reasonable or sustainable.
- 124.1. I have in my statement of 25th May 2009 made the point that the departments' legal directorate is insufficient. That the legal directorate is not blind to this fact and in fact initiated the legal incubator project to assist the department. If it is not encouraged to find it in the private sector that it has to turn to the state attorney's office, which has lead to disastrous consequences in the past. There are 16 posts in the legal directorate and 7 of them are vacant. Due to the various specialties in the

legal field, no legal directorate, whether working for the public or private sector is able to do all work without outsourcing. Each of the private legal firms the department relies on, has its own specialty.

125. I am however grateful for the investigator's input and will make sure that each of the TT4 members contracts are in place, and if there is no contract, or a contract requires updating that same is done.

126. The investigator in the 4th and 5th bullet point on pages 363 of its report finds that MNS attorneys scope was irregularly extended which makes payments to MNS and its subcontractors irregular expenditure.

"It appears as though Buthelezi appointed the aforesaid attorneys to oversee the work of Dornier. This appears, on the face of it, wasteful and unnecessary expenditure".

Finding

127. Mr. Harris has found that MNS attorneys' scope was irregularly extended which makes payments to MNS and its sub-contractors irregular expenditure.

My comment

128. I reiterate my earlier submission that MNS' appointment was in accordance with normal tender procedures and that the extension of its scope of services was justified in the circumstances.

129. I am satisfied that MNS has rendered quality service to the Department since its appointment and has in fact saved the Department money by playing a role as the "eyes and ears" of the Department on the Gautrain project.

130. I humbly submit that MNS 's appointment was in terms of a regular tender process and that the scope extension the investigator refers to is allowed, and such extension of scope was considered and approved by the DAC. Further that MNS has rendered services for the fees it charged and MNS through its sterling services actually saved the Department money.

131. *"It is alleged that the HOD has constructed a network of friends and acquaintances who he has insured the awarding of contracts for the purpose of enlisting bribes and favours from them"*

In particular, the MEC has alleged that I have a corrupt relationship with Stan Thusini. Mollo Molefi, Thandi Senoamali, Joshua Mkhonto and Tebogo Mogashoa

Finding

132. Mr. Harris has found that there is no evidence of wrongdoing but has qualified his finding by stating that there perhaps should be a further investigation of this matter.

My comment

133. While I have noted the finding, I find it extremely disturbing that Mr. Harris has qualified his finding by stating that there perhaps should be a further investigation. If he has concluded, as he has done, that there is no evidence of wrongdoing, on what basis should there be a further investigation? This qualification leads me to suspect that Mr. Harris was not objective in undertaking this investigation.

134. *"The HOD has established a parallel management division"*

The thrust of this allegation is that the Department makes excessive use of external consultants.

Finding

135. Mr. Harris has found that indeed the Department makes excessive use of external consultants and that these consultants earn well over a quarter of a million.

My comment

136. All governments the world over make use of external consultants .This is a world-wide phenomenon and there is good reason for it. Governments are generally the biggest organisations in the societies in which they exist, the biggest consumers of goods and services. That is why governments need outside help in the form of consultants to assist them to achieve their objectives.

Taking Mr. Harris' argument to its logical conclusion, if the Department is wrong by using the services of consultants, then Mr. Harris needs to explain why it is correct for him as a consultant within the Resolve Group, to have been appointed by Government to undertake this investigation. He needs to explain why his investigation should not have been undertaken by the Legal Services Directorate within the Department given his view that this directorate is fully-fledged and well-capacitated. Why should his appointment not be viewed as wasteful and irregular expenditure?

137. While I agree that consultants should not be paid excessively, I do not understand consultants not be paid a quarter of million if this is justified by the quality and the volume of the work done. The critical issue is value for money.

How much money is the Resolve Group going to be paid for its services, less than a quarter of a million? These are legitimate questions.

I raise these questions not to mock Mr. Harris but to demonstrate that his value-laden statements have cast a shadow over his objectivity and his conclusions, for reasons unknown to me, in most respects reveal a predilection for pandering to the MEC's unfounded and malicious allegations.

138. Allegations of corruption and nepotism against the HOD in regard to his relationships with Stan Thusini, Mollo Molefi, Thandi Senoamali, Joshua Mkhonto and Tebogo Mogashoa

Finding

139. Mr. Harris has found that there is no evidence of wrongdoing.

My comment

140. I have already responded to this finding in paragraph 133 above. While I have noted the finding, I am concerned that Mr. Harris deemed it fit to recommend a further investigation despite having found no evidence of wrongdoing.
141. Allegations by MEC that HOD has established a Parallel Management Division"
142. This paragraph is an exact replica of paragraph 133 above and I accordingly refer the reader to that paragraph.

Data Mobility

143. *“Mr Makhosonke Thusini was appointed as a Director of Data Mobility on 09 May 2006. However, at the time of Data Mobility’s appointment to the I3S contract, Mr Aziz Kara, the CEO of Bahlodi Group Holdings(Pty) Ltd, was a Director of Data Mobility. It is further alleged that following signature of the I3S contract with the Department, Mr. Kara resigned as a Director of Data Mobility and was replaced by Mr Thusini, the fact that Thusini was appointed after the contract was signed with the Department, is cause for concern”*

Finding

144. Mr. Harris has found that the allegation is incorrect and unsubstantiated.

My comment

I have noted Mr Harris’s finding.

R40 million payment to Kara

145. *“An amount of R40 000 000.00 was paid to Data Mobility on 29 March 2006. The MEC alleges that Kara received payment of his shares in Data Mobility from the first payment Data Mobility received of R40 000 000.00 from the Department and that this was the very reason that the initial payment was made i.e. to cater for the payment to Kara.”*

Finding

Mr. Harris has found as follows:

146. *“There is evidence to show that the HOD has not taken the responsibility for safe-guarding the assets of the Department in that he has not enforced the reconciliation of the invoices from Data Mobility to ascertain the asset purchased and is also unaware of the location of the assets purchased by Data Mobility on behalf of the Department.”*
147. *“The additional payments made to Data Mobility do not appear to be in line with the project deliverables and outcomes and that the payment made in the amount of R101 124 119.66 has not provided any real value to the Department.”*

Finding

Mr. Harris has found that based on the evidence from reports and interviews, the Department did not receive value for money on the Project.

148. I do not understand the investigator’s stance here. The investigator in it’s report confirms that it was advised that the I3S project is classified alternatively a secret. Yet the investigator in it’s report attaches I3S documents that is marked secret. This behaviour is not permissible as the I3S project has a level 5 security classification system and I am therefore prohibited to reveal same to the investigator.
149. If the Honourable Premier believes that the investigator’s concerns are material and recommends that I apply for the declassified of I3S documents I will do so without delay. The investigator however does not seem to believe it is material as it does not mention it as a ground for disciplinary proceedings against me.

Other areas of concern

150. Mr. Harris' concerns have been noted and I am committed to ensuring that the Department grows in those areas that he has flagged as needing serious attention.
151. I have addressed the issue of the Department using consultants to assist it in achieving its service delivery goals. This is not controversial at all and is a common practice across all spheres of government. It is entirely untrue that consultants are appointed to displace internal capacity. On the contrary, the intention at all times is to ensure that these consultants complement and fortify internal capacity.

As an example, Mr. Harris has alleged that the Department has a fully-fledged legal unit. This is completely untrue. The unit is not fully-fledged and not in a position to undertake all work of a legal nature including litigation, drafting of legal opinions etc.

It is therefore necessary to use external law firms and senior legal Counsel to advise the Department on a number of complex legal matters.

152. *“There is a pattern on the part of the HoD to invoke the provisions of Treasury Regulation 16A6.4 to appoint consultants without following a competitive bidding process”*

My comment

153. Procurement within the Department is undertaken through normal, open, and fair tender procedures in accordance with the PFMA and Treasury Regulations. In order to give effect to the provisions of the PFMA and Treasury Regulations in respect of procurement, the Department has

established a Departmental Acquisition Committee which meets on a weekly basis to evaluate and adjudicate tenders.

It is therefore untrue that the HOD's preferred method of procurement is through deviation procedures. On the contrary, the predominant acquisition method within the Department is through open and fair tender procedures as prescribed by the PFMA and Treasury Regulations.

In instances where procurement is undertaken through deviation procedures, this is undertaken in accordance with Regulation 16A.6.4 and it is submitted that this is a perfectly legitimate practice.

154. *"There is a pattern illustrated by the Department to appoint consultants to manage other consultants"*

My comment

155. There are instances when it becomes necessary due to the size and scope of a particular project to appoint dedicated capacity to monitor the performance of other consultants and report directly to the Department. In these instances, the Consultant acts as the eyes and ears of the Department. This is not, as Mr. Harris asserts, abdication of responsibility but an attempt to enhance and streamline accountability.

156. *"The relationship between the MEC and the HoD and the role played by each in respect of the Department is not clearly understood"*

My comment

157. I am not sure if Mr Harris's observation is correct. Speaking for myself as the HOD, I have been a Head of Department for more than 8 (eight) years and I am aware that the former MEC has also acted in that capacity for more than 10 (ten) years, albeit in different departments.

158. I am therefore not persuaded that both of us, after having served for such a long time in our respective capacities, could be accused of not understanding our respective roles.
159. The purpose and intent of my e-mail of 18 September 2008 was to bring to the fore my complaint that the MEC was interfering with my functions and duties as the HOD. I have even lodged a complaint of interference against the MEC with the Public Service Commission (PSC).
160. In my submission to the PSC, I cited the following examples:
- the MEC's attempt to thwart the bus transformation project which is in accordance with DORA; and
 - the MEC's intransigent behaviour regarding the North West bus subsidies and his refusal to allow the Department to oppose legal action resulting in a judgement by consent in excess of R104 million.
161. These are classical examples of the MEC not acting in the interest of the Department and interfering with my responsibilities as the accounting officer of the Department.

General recommendations

162. Mr. Harris has recommended disciplinary action against me on the basis of the following general findings:

“The HoD's contravention and/or non-compliance with key provisions of the PFMA, Treasury Regulations and Treasury SCM Practice Notes which have exposed the Department to significant financial risk”

My comment

163. I disagree with both this finding and the recommendation thereto. The finding is based on what Mr Harris considers to have been irregular appointments of the following:
- Ilima/Tau Pride;
 - TT4 Consultants;
 - MNS in respect of the extension of its scope on the SPTN;
164. In avoidance of prolixity, I will not reiterate my arguments on this matter as I dealt extensively with this matter above.
165. I therefore merely reiterate my contention that these appointments were effected properly in accordance with the provisions of the PFMA and Treasury Regulations as stated above.
166. *“In respect of Impophoma, the HoD abused his authority and power as the HOD by unilaterally demoting Mr Kibi, without following due legal process. In doing so, he has exposed the Department to risk”.*

My comment

167. As stated above I disagree with Mr Harris that Mr Kibi’s redeployment constituted a demotion.
168. I did not demote Mr. Kibi. I merely transferred him to another unit within the Department and this action was necessary in my view to avert further damage at Impophoma. In so doing, I contend that I did not violate the provisions of the Public Service Act (“PSA”). I have it on good authority that the PSA does not prescribe consensus in such instances.

169. *In relation to sending the e-mail of 18th September 2008, it is our view that the conduct of the HoD amounts to unbecoming conduct of that expected of a Head of Department and for which the HoD should accordingly be sanctioned*

My comment

170. It is critical to note at this point to note that I did send a letter of apology to the MEC as far as the email was concerned, wherein I expressed my regret for having distributed the e-mail in the manner that I did. I reiterate my apology to the MEC as it was not my intention to embarrass him in any manner or fashion. For the sake of completeness, I attach herewith a copy of the said letter marked “**Annexure B**”.

CONCLUSION

171. Having perused the report by Mr. Harris, I have noted that some of his findings betray a bias in favour of the MEC's version, particularly where disputes of facts exist.
172. Be that as it may, I am satisfied that I have responded to the findings contained in his report for purposes of my meeting with Premier on 25 June 2009. I however request six weeks to adequately respond more fully to the investigator's report.
173. This request is informed by the fact of Mr Harris' report being quite voluminous, it was not possible to provide a comprehensive response to all the issues contained therein.

Miscellaneous

174. I am also grateful for the investigating highlighting 4 areas in pages 365 – 367 of it's report which requires evaluation and scrutiny and I will make the best of my efforts to help the Department to grow in those areas.
175. My rights are reserved in full. I reserve the right to amplify my reply or to reply to any of the investigator" remaining allegations on a future appropriate date and forum and my failure to do so should not be construed as a waiver or admission thereof.

Yours faithfully

Mr S. Buthelezi

STATUS REPORT

Monday, 12 June 2009

MANAGEMENT AGENT FEES: ZOLA HOSPITAL, 300 BEDS DISTRICT HOSPITAL AND GATEWAY CLINIC ERF NO'S 2467, 2472 & PORTION 34 OF JABULANI EXT.1

Date	Event
29/05/2006	Project Registration
21/08/2008	Site Meeting with Previous Project Managers Tsiya Developments -Bruce Welchman
07/08/2008	Attempt to Hand over of Site but no contracts were signed
06/11/2008	Last meeting with Tsiya Project Managers
10/01/2009	First official Site Meeting Mageba Projects replace Tsiya Developments T Hayman. All new negotiations started from this point
16/01/2009	Indicated that Gateway Clinic must be finished 31st March 2009
21/01/2009	Start date by tauPride Moteko, Impophoma and Maziya
22/02/2009	Clinic hand over date
21/03/2009	JBCC Contract signed between DTRPW and Maziya/Toupride/Mat Consortium
17/04/2009	Cert 1: R 2 569 533.20
24/04/2009	Hospital hand over date (to the Contractor)
28/04/2009	Cert 2: R 1 950 359.20

21/05/2009	Cert 3:	R 3 935 516.43
21/05/2009	Cert 4:	R 17 182 898.43
04/06/2009	Cert 5:	R 4 216 720.78
04/06/2009	Cert 6:	R 8 118 146.93
Total Paid to Date		R 37 973 174.98