

AFFIDAVIT

I, the undersigned,

JOHN HENRY STEENHUISEN

Hereby make oath and state that:

AD DEPONENT

1.

- 1.1 I am an adult male person, Identity Number 7603255037081 and of full legal capacity, employed as a Member of Parliament and serving as the Chief Whip of the Democratic Alliance, at Office M217, 2nd Floor Marks Building, Parliament of the Republic of South Africa, Plein Street, and residing in Cape Town.
- 1.2 Unless specifically indicated otherwise, the facts contained in this affidavit fall within my personal knowledge, and are to the best of my belief both true and correct.
- 1.3 I do however point out that I rely upon the veracity of media reports which I refer to in this affidavit, and that I am deposing this affidavit on the presumption that the information contained in these media reports are factually accurate. Other than what is contained in the media reports referred to, I have no personal knowledge of the events.

PURPOSE

2.

- 2.1 This affidavit concerns possible criminal offences committed by various persons Prevention and Combating of Corruption Act, Act 12 of 2004 (hereafter referred to as "the Act").

2.2 I depose this affidavit in my capacity as a concerned citizen, and as a Member of Parliament representing a sizable constituency that is directly affected by the incidents detailed hereunder.

2.3 It is my belief that the acts detailed hereunder warrant further investigation by the South African Police Services, with the view to criminal prosecution.

3.

3.1 I will throughout the course of my statement refer to an article that was published in the Sunday Times on 19 November 2017 entitled “*Bongo ‘tried to bribe’ state capture lawyer*” (the ‘Article’). I have attached the report hereto marked as **Annexure “A”**.

BACKGROUND

4.

4.1 The Article records:

4.1.1. that during 2017 **BONGANI BONGO**, the incumbent Minister for State Security, offered Advocate **NTUTHUZELO VANARA** an amount of money in exchange for resigning from his position as an evidence leader in the parliamentary inquiry into state capture at Eskom.

4.1.2. that after Minister Bongo offered Advocate Vanara an “*open cheque*” and asked him to “*name his price*” in exchange for his resignation in order to frustrate the work of the inquiry. It is recorded that Advocate Vanara did not decline or accept the offer made by Minister Bongo but instead, after the Ministers made this ostensibly illicit offer, he deposed to an affidavit and submitted it to the Secretary to the National Assembly, **MASIBULELE XASO** and the acting Secretary to Parliament, **BABY TYAWA**.

- 4.1.3. that the official spokesperson for Parliament, **MOLOTO MOTHAPO**, has confirmed that the Speaker of the National Assembly, **BALEKA MBETE** (the 'Speaker') has received Advocate Vanara's affidavit and that she has referred it to Parliament's Joint Committee on Ethics and Members' Interests.
- 4.1.4. It should be noted that at the time of signing this affidavit, Advocate Vanara's affidavit had not yet been tabled before Parliament's Joint Committee on Ethics and Members' Interests.

THE ALLEGED OFFENCES

5.

- 5.1. It is my submission that upon a thorough investigation of the allegations made in the Article, Minister **BONGANI BONGO**, may be charged with a criminal offences flowing from the unlawful abuse of public funds.
- 5.2. At the outset, I would like to set out the main sections of the Prevention and Combating of Corrupt Activities Act, Act 12 of 2004 (hereafter referred to as the 'PACCA Act'), upon which I base my submissions of possible offences.
- 5.3. In this regard, I will often refer to section 3 of the PACCA Act, which provides for a general offence of corruption, as follows:

Any person who, directly or indirectly –

- (a) accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or*
- (b) gives or agrees or offers to give any other person any gratification, whether for the benefit of that other person or for the benefit of another person –*

In order to act, personally or by influencing another person so to act, in a manner

- (i) That amounts to the –*

- (aa) *illegal, dishonest, unauthorized, incomplete or biased; or*
- (bb) *misuse or selling of information or material acquired in the course of the exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation*
- (ii) *That amounts to –*
 - (aa) *the abuse of a position of authority;*
 - (bb) *a breach of trust; or*
 - (cc) *the violation of a legal duty or a set of rules,*
- (iii) *designed to achieve an unjustified result; or*
- (iv) *that amounts to any other unauthorized or improper inducement to do or not to do anything,*

Is guilty of the offence of corruption.

5.4. I shall also refer to section 12(1) of the PACCA Act, which provides for offences in respect of corrupt activities relating to contracts as follows:

Any person who, directly or indirectly –

- (a) *accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of that other person or of another person; or*
- (b) *gives or agrees or offers to give any other person any gratification, whether for the benefit of that other person or for the benefit of another person –*
 - (i) *In order to improperly influence, in any way –*
 - (aa) *the promotion, execution or procurement of any contract with a public body, private organization, corporate body or any other organization or institution;*
 - (bb) *the fixing of the price, consideration or other moneys stipulated or otherwise provided for in any such contract; or*
 - (ii) *As a reward for acting as contemplated in paragraph (a)*

is guilty of the offence of corrupt activities relating to contracts

- 5.5. Section 21 of the PACCA Act provides for an offence that involves the attempt, conspiracy or inducement of another person to commit offences in terms of the PACCA Act. It reads as follows:

Any person who –

- (a) attempts;*
- (b) conspires with any other person; or*
- (c) aids, abets, induces, incites, instigates, instructs, commands, counsels or procures another person*

to commit an offence in terms of this Act, is guilty of an offence.

7.

- 7.1. Paragraph 4 above details an incident perpetrated by Minister **BONGANI BONGO**. It is my submission that, if found to be true, the incidents constitute all the elements of corrupt activities in that, *inter alia*, a person(s) has been paid or offered to pay over a gratification(s) to a beneficiary, in an attempt to induce the beneficiary to act in a manner that *inter alia* is designed to achieve unjustified results.
- 7.2. Accordingly, it is submitted that the incidents described in paragraph 4 above constitute criminal offences committed by Minister **BONGANI BONGO** in terms of:
- 7.3.1. Section 3 of the PACCA Act;
 - 7.3.2. Alternatively, section 12 of the PACCA Act;
 - 7.3.3. Further alternatively, section 21 of the PACCA Act.

8.

I lastly believe that during the course of an investigation it may emerge that other persons, other than those mentioned above, may be implicated. To that extent, charges may be brought against them where appropriate.

9.

This is all I can declare.

DEPONENT: JOHN HENRY STEENHUISEN

I CERTIFY THAT THIS AFFIDAVIT WAS SIGNED AND SWORN TO BEFORE ME AT _____ ON THIS _____ DAY OF _____ 2017. THE DEPONENT HAVING ACKNOWLEDGED THAT HE/SHE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT AND I CERTIFY THAT THE REGULATIONS IN TERMS OF SECTION 10 OF ACT 16 OF 1963, AS PUBLISHED UNDER GN. R1258 OF 21 JULY 1972 AS AMENDED BY GN. R1648 OF 1977 AND GN. R1428 OF 1980 AND GN. R773 OF 1982, HAVE BEEN COMPLIED WITH.

COMMISSIONER OF OATHS

FULL NAMES : _____
DESIGNATION : _____
AREA : _____
ADDRESS : _____