

AFFIDAVIT

I, the undersigned,

NATASHA WENDY ANITA MAZZONE

Hereby make oath and state that:

AD DEPONENT

1.

- 1.1 I am an adult female person of the above details and of full legal capacity, employed as **MEMBER OF PARLIAMENT**, at **OFFICE M301, MARKS BUILDING, PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA, PLEIN STREET, CAPE TOWN**, 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, where I refer to information contained in newspaper reports, I rely upon the veracity of the said reports, and that I am deposing this affidavit on the presumption that said reports are factually accurate.

AD PURPOSE

2.

- 2.1 This affidavit concerns possible criminal offences committed by various persons, some of whom are unknown to me, involved in generating financial “kickbacks” to a company called **CAD HOUSE**, a company specializing in 3D-printers.

- 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.

THE SAP KICKBAKCS

3.

- 3.1 I attach hereto as **ANNEXURE “A”** a copy of an article published online by the Daily Maverick on 10 July 2017, entitled “Software Giant SAP paid Gupta-front R 100 million ‘kickbacks’ for state business.” (Hereafter referred to as “the SAP article”).
- 3.2 The article states that, in August 2015, a German multi-national software company, **SYSTEMS APPLICATIONS PRODUCTS (SOUTH AFRICA) (PTY) LTD** (hereafter referred to as “SAP”), signed what they termed a “sales commission agreement” with a small company in the business of 3D-printers, **CAD HOUSE CC** (hereafter referred to as “Cad House”).
- 3.3 The sales commission agreement (hereafter referred to as “the SAP agreement”) is attached hereto as **ANNEXURE “B1”** – paragraphs 7.1 and 7.2 determines that Cad House is entitled to be paid commission for any consumer contract entered into between SAP and a consumer where such contract is the direct result of Cad House’s efforts.
- 3.4 The appendix to the SAP agreement (hereafter referred to as “the appendix”) is attached hereto as **ANNEXURE “B2”** – in paragraph 1.1 thereof SAP agrees to pay Cad House a commission of 10% of the total fee due to SAP if the desired contract, with state-owned company **TRANSNET SOC** (hereafter referred to as “Transnet”) to the value of at least **R 100,000,000 (ONE HUNDRED MILLION RAND)** is concluded, as is stipulated in the SAP agreement, through the “direct effort” of Cad House.

3.5 According to the SAP article, Cad House was, at the time, half owned by **SANTOSH CHOUBEY** (Hereafter referred to as “Choubey”). He is also mentioned specifically in the appendix.

3.5.1 Choubey was at the time an employee of **SAHARA SYSTEMS**, and the SAP article states that Cad House was managed as a *de facto* subsidiary of Sahara Systems.

3.5.2 Sahara Systems’ shareholding is constituted in such a way that the main beneficiaries are members, employees and associates of the **GUPTA FAMILY** and **DUDUZANE ZUMA**, the son of President Jacob Zuma.

3.5.3 The Gupta family, their employees and associates, were involved in previous “kickback” schemes involving Transnet. In this regard I attach hereto as **ANNEXURE “C”**

3.5.4 According to the SAP article, it is unlikely that the agreement between SAP and Cad House was a straight-forward commission agreement, and possibly constituted a bribe.

3.6 Taking into regard all of the above, it is my respectful submission that a thorough investigation may reveal that offences were committed in terms of the *Prevention and Combatting of Corrupt Activities Act*, Act 12 of 2004 (hereafter referred to as the “PACCA Act”)

3.6.1 The offences were committed by amongst others Choubey (of Cad House), **DEENA PILLAY**, (Chief Financial Officer of SAP, hereafter referred to as “Pillay”), **BRETT PARKER** (Managing Director of SAP Africa, hereafter referred to as “Parker”), **GARY PITA** (Chief Financial Officer of Transnet, hereafter referred to as “Pita”) and **LAWRENCE KANDASWAMI** of SAP South Africa, who was – according to the SAP article – the key contact between SAP and the Gupta family.

3.6.2 Section 3 of the PACCA Act reads as follows:

3 General offence of corruption

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 to 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, unauthorised, 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 unauthorised or improper inducement to do or not to do anything,*

is guilty of the offence of corruption.

3.7 Additional offences in terms of section 3 of the POCA Act may have been committed by Kandaswami and Choubey in 2014 and 2016, as the SAP article shows:

3.7.1 Attached hereto as **ANNEXURE “D1”** is an email Kandaswami sent to **MANTSIKA MANTOOANE** and **BARNABAS MASEKWAMENG** of Transnet on 16 October 2014, following a meeting at which SAP presented a commercial proposal to Transnet. The following day – 17 October 2014 – Kandaswami forwarded the email to Choubey with the message “This is to prompt movement on the opportunity.” Choubey then forwarded the email to **SALIM ESSA**, another known associate of the Gupta family.

3.7.2 Further attached hereto as **ANNEXURE “D2”** is an email Kandaswami sent to **ANOJ SINGH, MATSHELA KOKO** and **EDWIN MABELANE** of Eskom on 2 March 2016 relating to an ongoing strategic deal between SAP and Eskom. On the same day, Kandaswami forwarded the email to Choubey, who sent it on to another known Gupta associate, **ASHU CHAWLA**, soon afterwards.

THE CAD HOUSE SAP LAUNDERING CHAIN

4.

4.1 The SAP article reveals that the money Cad House received from SAP in terms of the agreement and the appendix was laundered in order to benefit various Gupta-related companies:

4.1.1 In April 2016, CAD House received **R 17 MILLION** from SAP. CAD House then transferred the money as follows:

- (a) **R 2 MILLION** to the Gupta-controlled **SAHARA COMPUTERS** on the same day;
- (b) **R 2.3 MILLION** to an Eastern Cape company on the same day;
- (c) **R 9 MILLION** to the Gupta-controlled **SAHARA COMPUTERS** within five days after the payment from SAP;
- (d) **R 1 MILLION** to the bank of Baroda, where the Gupta-family has bank accounts, within five days after the payment from SAP.

4.1.2 In July 2016, CAD House received **R 9.2 MILLION** from SAP. CAD House then transferred the money as follows:

- (a) **R 7.7 MILLION** to **SAHARA SYSTEMS** within two days after the payment from SAP;
- (b) **R 1.1 MILLION** to the same Eastern Cape company they transferred R 2.3 million to in April 2016 (see paragraph 4.1.1 above);

4.1.3 In December 2016, CAD House received **R 73.7 MILLION** from SAP. CAD House then transferred a total of **R 71.1 MILLION** to three companies, all Gupta-linked: **SAHARA SYSTEMS**, **CUTTING EDGE** and **FUTURETEQ**.

4.1.4 The SAP article claims that almost the entire **R 99.9 MILLION** (barring only **R 5.7 MILLION**) that CAD House received from SAP, in total, was laundered back into Gupta-controlled companies.

5.

5.1 It is my submission that, upon a thorough investigation of the allegations made in the article, several of the individuals mentioned above, as well as other individuals and public officials currently unknown to me, may be charged with the following offences:

5.1.1 **Racketeering**, in terms of Section 2 of the *Prevention of Organised Crime Act*, 121 of 1998 (hereafter referred to as "POA"), in that the persons mentioned above:

- (a) received or retained property derived, directly or indirectly, from a pattern of racketeering activity, and knew or ought reasonably to have known that such property is so derived, and used or invested, directly or indirectly, any part of such property in acquisition of any interest in, or the establishment or operation or activities of, any enterprise;
- (b) received or retained any property, directly or indirectly, on behalf of any enterprise and knew or ought reasonably to have known that such property derived or is derived from or through a pattern of racketeering activity;
- (c) used or invested any property, directly or indirectly, on behalf of any enterprise or in acquisition of any interest in, or the establishment or operation or activities of any enterprise while they knew or ought reasonably to have known that such property derived or is derived from or through a pattern of racketeering activity;
- (d) acquired or maintained, directly or indirectly, any interest in or control of any enterprise through a pattern of racketeering activity;
- (e) whilst managing or employed by or associated with any enterprise, conducted or participated in the conduct, directly or indirectly, of such enterprise's affairs through a pattern of racketeering activity;

(f) managed the operation or activities of an enterprise and knew or ought reasonably to have known that any person, whilst employed by or associated with that enterprise, conducted or participated in the conduct, directly or indirectly, of such enterprise's affairs through a pattern of racketeering activity;
or

(g) conspired or attempted to violate any of the provisions of sections 2(1) (a), (b), (c), (d), (e) or (f) of the POA

5.1.2 **Money Laundering**, in terms of Section 4 of POA, in that the persons mentioned above knew or ought reasonably to have known that property is or formed part of the proceeds of unlawful activities and-

(a) entered into any agreement or engaged in any arrangement or transaction with anyone in connection with that property, and

(b) performed any other act in connection with such property,

which was likely to have the effect of concealing or disguising the nature, source, location, disposition or movement of the said property or the ownership thereof or any interest which anyone may have in respect thereof.

5.1.3 **Assisting another to benefit from the proceeds of unlawful activities**, in terms of Section 5 of the POA, in that the persons mentioned above assisted one another to benefit from proceeds of unlawful activities, in that they knew or ought reasonably to have known that said proceeds were obtained from unlawful activities, and they entered into agreements or engaged in arrangements or transactions whereby the retention or the control by or on behalf of the said other persons of the proceeds of unlawful activities were facilitated; or the said proceeds of unlawful activities were used to make funds available to the said other persons or to acquire property on their behalf or to benefit them in any other way.

5.1.4 **Acquiring, possessing or using the proceeds of unlawful activities**, in terms of Section 6 of the POA, in that the persons mentioned above acquired,

possessed or used the proceeds of unlawful activities and knew or ought reasonably to have known that it is or forms part of the proceeds of unlawful activities.

5.

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 the extent that charges may be brought against them.

6.

This is all I can declare.

DEPONENT: NATASHA ANITA WENDY MAZZONE

I CERTIFY THAT THIS AFFIDAVIT WAS SIGNED AND SWORN TO BEFORE ME AT _____ ON THIS _____ DAY OF _____ 2016. 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 : _____

WELL, IT SEEMED A GOOD IDEA AT THE TIME
11 AUGUST 2017 08:52 (SOUTH AFRICA)

DAILY MAVERICK

BUSINESS

amaBhungane & Scorpio #GuptaLeaks: Software giant SAP paid Gupta front R100- million "kickbacks" for state business

• AMABHUNGANE & SCORPIO [BUSINESS](#) 10 JUL 2017 11:13 (SOUTH AFRICA)



#GuptaLeaks
by amaBhungane & Scorpio
with NEWS24



To clinch Transnet business, business software giant SAP agreed to pay 10% "sales commission" to a company controlled by the Guptas. The evidence suggests the company – a little-known outpost of the Gupta empire – was deliberately interposed to obscure Gupta involvement and to launder the proceeds to them. By AMABHUNGANE & SCORPIO.

With €22-billion (about R330-billion) in revenue last year, German software multinational SAP should have all the expertise it needs to close major deals.

Instead, the #GuptaLeaks and related information show, the world's third largest software company is not above calling in help from the politically connected, risking contravention of international anti-bribery laws.

AmaBhungane and Scorpio can reveal that in August 2015, SAP signed a "sales commission agreement" with a small Gupta-controlled company that specialises in selling 3D printers.

The terms suggest a thinly disguised kickback arrangement: If the Gupta company were the "effective cause" of SAP landing a Transnet contract worth R100-million or more, it would get 10%.

In the year to follow, SAP paid the company, CAD House, a whopping R99.9-million, suggesting SAP used the Gupta influence network to drive sales of a billion rand to Transnet and other state-owned companies.

SAP denies it paid kickbacks or was party to laundering the payments, arguing that CAD House had "the necessary skills in terms of positioning our solution" and was paid a sales commission for acting as "an extension of the sales force".

But there are factors suggesting that SAP's denial does not hold water: There is no evidence that CAD House had any experience marketing or selling SAP software. And CAD House appears to have been used as a front, both to distance the transaction from the Guptas and to launder the proceeds to them.

Neither CAD House nor the Gupta family responded to detailed questions.

Strategic customer

In 2014, Transnet was considered so key to SAP's business that it was defined as a "strategic customer" – a designation given to just 300 out of 197,000 SAP customers worldwide, according to an SAP presentation found in the #GuptaLeaks.

Despite its special relationship, SAP was seemingly having trouble closing deals with Transnet and turned to the Guptas for help, the trove shows.

CAD House, which specialises in selling 3D printers, is not widely known to be part of the Gupta empire. At the time it was, on paper, half owned by Santosh Choubey, a key Gupta lieutenant employed by their Sahara Systems.

Minutes and other #GuptaLeaks records show, however, that CAD House was managed as a subsidiary of the Sahara group – indicating that beneficial ownership rested with the Guptas themselves.

In an interview, SAP South Africa chief financial officer Deena Pillay claimed that CAD House was no different to other sales agents SAP uses. "They're small guys who would go out there, identify business and come to SAP with that opportunity. It's a lever available to SAP to sell its software... We've got a sales force that we employ, so these are the agents on the ground... They are an extension of the sales force."

In SAP's world, commission agreements are not unusual. Except in this case Transnet was already a client of SAP and the commission agreement with CAD House made it clear SAP was not so much hiring a sales agent to market a product to Transnet as a fixer to clinch the deal.

The commission agreement was signed on 20 August 2015 by Pillay and another senior SAP executive. It promised CAD House 10% if CAD House was the "effective cause" of Transnet signing a R100-million-plus deal with SAP.

CAD House's "main purpose", it specified, "is to assist [SAP] in obtaining Customer consent to the Customer Contract and Customer's requisite signatures to such agreement".

Due diligence

SAP's Pillay told us that an "external reputable company" did a "rigorous due diligence" on CAD House before the agreement was signed. Pillay's colleague Candice Govender, who is SAP South Africa head of legal, confirmed that SAP was aware CAD House was connected to Sahara, but found "no red flags".

Yet, by the time SAP signed the commission agreement in August 2015, the red flags were in plain sight.

Three weeks earlier, amaBhungane and the *Mail & Guardian* had revealed how telecoms firm Neotel agreed to pay letterbox company Homix R104-million in what were also termed "commissions" – clearly kickbacks – to land Transnet contracts.

Our exposé at the time showed that a Gupta man was behind Homix. Immediately after the exposé, Neotel's chief executive and chief financial officers went on "special leave", ultimately to lose their jobs.

Two possibilities present themselves: Either SAP ignored the obvious red flags about the Guptas' alleged involvement as fixers at Transnet, or it signed up for exactly the same service.

In a settlement with the US Securities and Exchange Commission last year, SAP agreed to pay a \$3.9-million fine after a senior SAP official paid bribes for state business in Panama via a local partner.

The SEC had jurisdiction because of SAP's secondary listing on the New York Stock Exchange.

The road to closure

Even for questionable commission agreements, 10% appears to be high. One industry insider put the usual "fixer" fee at closer to two or three percent. With the Neotel deals, Homix was to receive roughly 5% of the roughly R2-billion Transnet contract value.

But SAP not only wanted a Transnet deal worth a minimum of R100-million, it wanted it signed within just one month.

In an attached timeline of deliverables, referred to in the commission agreement as the “Road to Closure”, CAD House and Choubey were expected to secure a meeting with Transnet chief financial officer Garry Pita within just three days to “position the financial benefit” of SAP’s proposal.

After that it was not a sales effort, but one simply of getting Pita and Transnet to give the necessary approvals. The timeline provided that Pita would have the required R100-million-plus “budget reallocated for capital approval” only a week later.

By 21 September 2015, a month after SAP signed the commission agreement, CAD House was expected to “fast-track and attempt to obtain contract signature” from Pita and Transnet’s chief information officer – although it had leeway until the end of December still to qualify for the commission.

While there is scant information in the agreement about how CAD House would work such a miracle, the agreement – in common with many commission contracts – contained extensive anti-bribery clauses, making CAD House promise that it would not pay any money in turn to government, state-owned company or party officials. But the circumstances suggest this was little more than a fig leaf.

Fronting for the Guptas

The evidence suggests that CAD House was interposed as a front to avoid exactly the kind of red flags that the Guptas as politically connected persons would have raised during a due diligence.

For a company with a turnover of less than R20-million and struggling to make any profit at all, the prospect of millions in commission should have been a major development.

Yet, #GuptaLeaks minutes of monthly CAD House meetings straddling the date of the commission agreement make no mention of the expected windfall. The meetings, at Gupta holding company Oakbay Investment's Sandton offices, were attended by both Sahara and CAD House officials and discussed revenue-generating proposals for the latter.

A CAD House budget signed off in February 2016 – six months after the commission agreement was signed and shortly before SAP's payments were to start rolling in – made no mention of the income either.

As we shall see, this was with good reason: SAP's payments were not to stay with CAD House, but flow straight out to other Gupta companies.

Although SAP vehemently defended the decision to hire CAD House, Pillay and Govender seemed unable to explain why a company that sells 3D printers was an ideal partner for a complex software deal.

"We were doing a proof of concept and CAD House was an existing vendor at Transnet and we were looking at doing 3D models for these guys to show them the value and the benefit of using our solution," Pillay told us.

When pushed for further detail of what SAP product required it to be modeled in 3D, Pillay said: "[The deal] was about Transnet in terms of the rail infrastructure, the way the operations work, the yards, the trains – all of that these guys were able to do the necessary 3D modelling as well as being able to position the SAP solution."

When we pointed out that CAD House's speciality is selling printers that make physical 3D models, Govender deflected: "At the end of the day they [CAD House] were vetted internally and externally; SAP was happy that they added value; [Transnet] was happy that they added value... Look, you have the CFO and SAP head of legal in front of you... If you need more technical detail you don't have the right people in front of you."

There are compelling reasons to be sceptical of SAP's explanation:

One, Pillay signed the commission agreement on behalf of SAP and would surely have been privy to why SAP was giving away 10% of a minimum R100-million deal.

Two, If SAP honestly did want plastic models of its software solution it could have bought them at a fraction of the cost.

And three, despite Pillay maintaining that SAP engaged CAD House because of its “existing relationship [and] understanding the processes within Transnet”, Transnet denied it had any relationship with CAD House whatsoever.

Pita, the Transnet chief financial officer and “Road to Closure” target of SAP and CAD House’s lobbying efforts, wrote in reply to our questions: “According to our records, Transnet has not conducted business with CAD House. I have never heard of CAD House or dealt with them, nor have I had any discussions with a Mr Choubey about them.

“I have never been approached by CAD House or Mr Choubey to discuss Transnet’s contract with SAP or SAP’s services and products. I have not met with any third party to discuss contracts between Transnet and SAP.”

All in all, a more plausible explanation for the payments to CAD House may be that SAP willingly entered into a kickback agreement where both parties knew the Guptas, not CAD House, were to receive SAP’s millions and use their politically-derived influence to secure business for SAP. This is supported by what happened in the run-up to the deal.

The start of a beautiful friendship

The #GuptaLeaks show that Lawrence Kandaswami, SAP South Africa’s managing director, was the software multinational’s key contact with the Guptas.

As far back as 2014, when he was still SAP’s account director responsible for Transnet, Kandaswami exchanged emails with Choubey, who used his Sahara Systems email address.

At the time, SAP was trying to close a separate deal with Transnet to buy SAP Hana, a database management product.

A day after meeting with Transnet, Kandaswami forwarded Choubey the SAP presentation marked “strictly confidential”, detailing the proposed deal.

Kandaswami’s message read: “This is to prompt movement on the opportunity.” Choubey immediately forwarded the email to Salim Essa, with a note saying: “Sir – FYI – Supporting for Hana from SAP.”

Essa, a key Gupta lieutenant, has often been the family’s most direct point of contact at Transnet and Eskom.

The #GuptaLeaks do not show what Essa did after receiving Kandaswami’s email but Transnet confirmed that it agreed to go ahead with the proposed SAP Hana deal in late 2014.

By February 2015, Kandaswami had been promoted to SAP South Africa’s head of public sector, according to his LinkedIn profile. Both Transnet and Eskom’s accounts were now under his purview.

There are indications that a similar role was played at Eskom too.

On 17 February 2016, the #GuptaLeaks show, Choubey scheduled a meeting between Sahara and SAP. Two weeks later, on 2 March, Kandaswami emailed Eskom chief financial officer Anoj Singh, head of procurement Edwin Mabelane and head of generation Matshela Koko about an urgent deal for Eskom to acquire SAP Hana.

The offer would expire, he warned, at the end of March unless Eskom seized the opportunity.

In a pattern that has now become familiar, Kandaswami almost immediately forwarded this email to Choubey, who forwarded it to one of the Gupta brothers’ adult children.

Eskom spokesperson Khulu Phasiwe confirmed that Eskom signed two contracts with SAP during 2015 and 2016, but declined to provide any further detail, citing a confidentiality agreement signed with SAP.

Shortly after these exchanges took place, Kandaswami was promoted to managing director for SAP South Africa.

R99.9m payday

Following the signing of the Transnet commission agreement, the money started flowing to CAD House – and straight out again.

The first SAP payment we know about landed in CAD House's bank account in April 2016. The R17-million did not stay there long; on the same day R2-million was transferred out to Sahara Computers and R2.3-million to an obscure Eastern Cape company whose owner we have been unable to trace.

Within five days another R10-million was transferred out: R9-million to Sahara Computers and a million to Baroda, the Guptas' bank of choice.

A similar pattern was repeated that July when R9.2-million came in from SAP. Within two days, R7.7-million bounced to Sahara Systems and R1.1-million to the Eastern Cape company.

In December that year, a massive R73.7-million rolled in from SAP. Within a fortnight, R71.1-million had gone out to three companies in the Sahara orbit: Cutting Edge, Futureteq and Sahara Systems.

All in all, we identified R99.9-million in SAP payments of which only R5.7-million did not flow straight out.

The amount appears not to relate only to the R100-million minimum Transnet contract that was the subject of the commission agreement we know about. Pillay and

Govender confirmed that SAP paid CAD House in respect of “other customers” too, but refused to give details, citing client confidentiality.

This pattern, of money being cycled through Gupta-controlled accounts at a rate that defies all commercial reason, has become familiar through the #GuptaLeaks.

When we put it to SAP that it may have become party to a money laundering scheme by contracting with CAD House, Govender objected strongly, saying: “We are not aware of any payments being made to Sahara or anybody else. Our contract is with CAD House.”

Pillay added: “What the partner does with their money I have no control over. If you say these guys pass the money up the line, I have no control over that, I have no visibility over that.”

SAP may end up having to explain that to the Securities and Exchange Commission too, which will have SAP on a watch list after last year’s settlement over bribery in Panama. In that matter, the SEC found that SAP “failed to devise and maintain an adequate system of internal accounting controls” to prevent bribery.

Transnet did not respond to questions other than to mirror Pita’s comments, saying it had “never conducted any business with CAD House. The company is not aware of CAD House’s involvement with SAP or Mr Choubey”.

Detailed questions were sent to SAP’s Kandaswami and Sahara’s Choubey, but neither responded.

In a written statement, Govender said: “SAP is dedicated to conducting every aspect of our business responsibly and in accordance with the highest legal standards... With regard to CAD House and SAP SA Business Development Partners in general, please note that any selected SMMEs and/or partners are verified, both in terms of SAP’s rigorous internal forensic procedure as well as by an independent forensic law firm.” **DM**

- Scorpio is the Daily Maverick's new investigative unit. If you'd like to support its work, [click here](#).
- [The amaBhungane Centre for Investigative Journalism](#) is an independent non-profit. Be an [amaB supporter](#) to help it do more. Sign up for [its newsletter](#) to get more.

Photo: Ajay and Atul Gupta.



#GUPTALEAKS

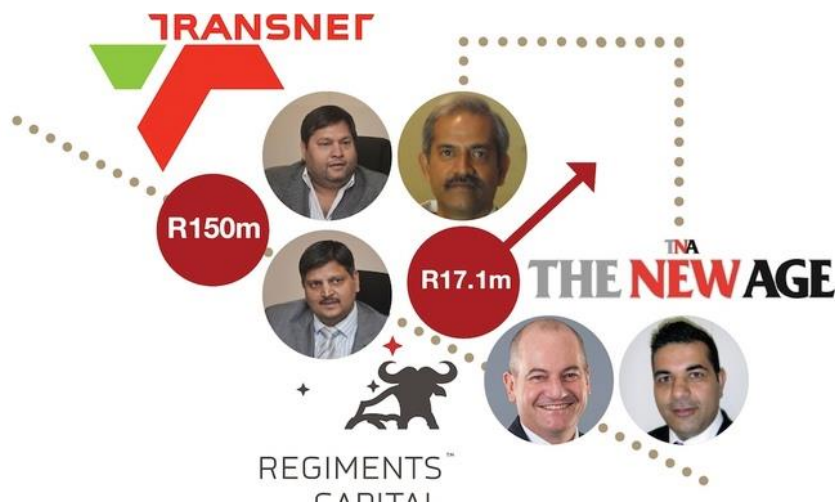
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(URL: https://www.dailymaverick.co.za/article/2017-07-10-amabhungane-scorpio-guptaleaks-software-giant-sap-paid-gupta-front-r100-million-kickbacks-for-state-business/#.wy1us1wg_iu)



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Evidence of millions flowing to a Gupta company has tied the family directly to an apparent racket of shaking down companies that sought state contracts.

For more than a year, amaBhungane has investigated how a letterbox company called Homix secreted away hundreds of millions; apparent kickbacks from companies doing business with Transnet, the state-owned transport operator.

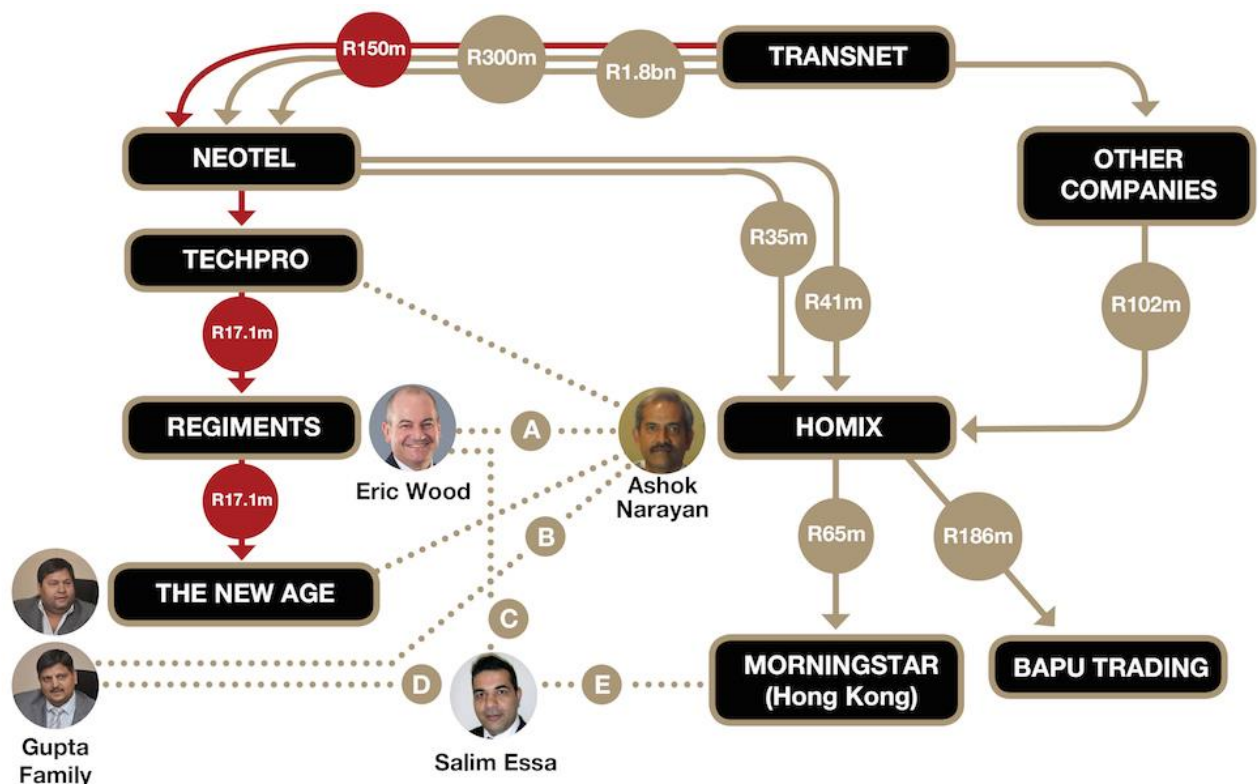
Read our analysis: [Zuma's treasonous alliance with the Guptas](#)

There were signs all along that this had something to do with the Guptas. Homix's self-proclaimed chief executive used to manage a Gupta company.

Some of the money flowed to a Hong Kong firm that shared an address with a Gupta lieutenant's companies.

Now, papers filed in the High Court in Johannesburg have provided direct evidence of Gupta involvement: after Homix was exposed, a seemingly round 10% of the first year's fee on another big Transnet contract flowed to Gupta-owned TNA Media.

The amount, R17,1 million, was allegedly laundered through two companies on the strength of a backdated contract and bogus invoices before arriving at TNA, which publishes *The New Age*.



- A** Starting in March 2015, Wood and Narayan exchanged a number of emails
- B** Narayan is a former director of the Gupta owned Sahara Systems
- C** Wood left Regiments to join Trillian with Essa and is now embroiled in a legal battle with Regiments
- D** Essa is a co-director and shareholder in a number of Gupta companies, most notably Tegeta
- E** Essa's controversial joint venture with Denel, VR Laser Asia, is registered at the same address

The latest evidence adds substance to the claim at the centre of the "state capture" debate: that the Guptas squeeze kickbacks from companies doing business with the state by using their political connections and officials they have deployed or bought.

The Gupta family did not reply to questions this week, saying via a spokesperson: "AmaBhungane has consistently printed innuendo, speculation and lies about the Gupta family, its businesses and its friends.

"We have replied in good faith many times, but still suffer from total rubbish being printed. We fully respect genuine media enquiries but will no longer reply to ... amaBhungane."

Transnet denied wrongdoing, saying it was "confident in [our] processes".

The emergence of Homix

The story so far starts in early 2014 when Homix made contact with telecoms provider Neotel.

In a letter, it offered to land Neotel a Transnet IT equipment contract — in return for which it wanted 10% of the contract value.

Despite internal misgivings, Neotel paid Homix R35 million and landed the contract, worth over R300 million.

During August 2014, an even bigger prize came up. Transnet nominated Neotel as preferred bidder in a tender for a wide suite of network services, saying that it would get the contract if terms could be agreed by a December deadline.

With two weeks to go, Transnet withdrew from the negotiations without giving reasons, according to information from an investigation later ordered by Neotel's board. In apparent desperation, Neotel reached out to Homix again.

A Neotel employee told the board's investigators that Homix again demanded 10%. Neotel bargained it down to 2% of the R1.8 billion contract value — R41 million including VAT.

Transnet returned to the negotiating table and Neotel got the contract.

There can be little doubt the payments were kickbacks. Homix was not a sophisticated consulting business whose work could justify millions in fees.

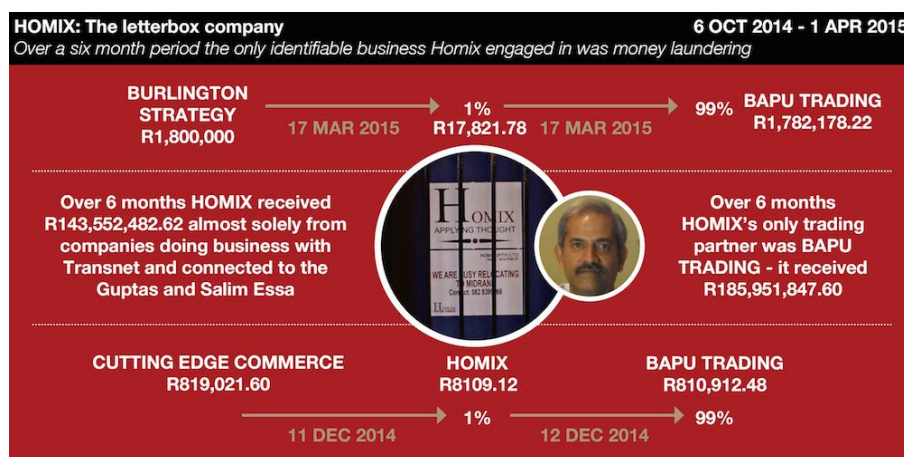
When amaBhungane visited its Wierda Park, Centurion office address last year, we found a locked blue door abutting a latrine in a neglected office block.

A neighbour said a single person used to come in irregularly, generally after hours. Homix's only registered director, Yakub Bhikhu, was hard to trace.

When someone claiming to be him finally answered a phone number stuck to the blue door, he did not respond to questions.

However, when the Neotel investigators started asking questions, one Ashok Narayan identified himself as Homix's chief executive and tried unsuccessfully to convince them that the company had done real work for Neotel.

Narayan was a former managing director of Gupta IT company Sahara Systems.



The Homix laundry

Homix bank records later seen by amaBhungane confirmed the impression that it was a front to launder kickbacks, not a legitimate business.

The records showed minimal office and no salary expenses. But they did show money flowing in and out of Homix at an astounding rate: R144 million in and R189 million out over just six months.

The inflows consisted largely of transfers from Neotel and four other companies, each of which benefited from Transnet contracts.

Almost all of the outflows went to Bapu Trading, a company more obscure even than Homix. There the trail went cold.

But a month later, in May 2015, Homix made 16 transfers totalling about R66 million to two Hong Kong companies, according to an official report seen by amaBhungane.

The Reserve Bank got suspicious, as the outflows did not match claimed imports. It froze the last three transfers at the end of that month.

One of the two Hong Kong companies on the receiving end, Morningstar International Trade, shares a registered address with companies formed by Gupta lieutenant Salim Essa.

CCTV contracts

During this entire history, two more very large contracts came up at Transnet, this time to install CCTV cameras at ports. Again they went to Neotel, and again 10% appears to have been laundered.

But this time it ended discernably in a Gupta account. It went like this:

In May 2014, Transnet approved the confinement of the first CCTV contract, worth R329 million, to Neotel. "Confinement" is Transnet's term for appointing a supplier without a competitive tender.

Nine months later, on February 20, 2015, Transnet management recommended confining a second CCTV contract to Neotel too, Transnet procurement records show.

The timing was interesting.

The day before, Neotel records show, Neotel had signed a "business consultancy agreement" with Homix finally to give effect to its promise to pay Homix R41 million to get the unrelated Transnet network services contract.

Transnet notified Neotel that it had won the second CCTV contract, worth another R505 million over three years, at the end of March 2015, Neotel records show.

Two weeks later Transnet formally placed the order with Neotel.

Neotel in turn subcontracted a CCTV specialist company, Technology and Procurement Holdings, better known as Techpro.

Homix exposed

If Neotel or Techpro had promised a kickback on this latest contract too, paying it via Homix would have been risky.

In mid-April 2015, when Transnet placed the CCTV order, Neotel's auditors were crawling all over the earlier Homix payments.

They blew the whistle to Neotel's board, which commissioned an investigation that ultimately led to Neotel's chief executive and chief financial officers resigning.

And the air was not about to clear. By the end of April, Neotel's auditors had reported the Homix payments to the Independent Regulatory Board for Auditors, which in time notified other authorities, including the Hawks.

By the end of May, the Reserve Bank had frozen Homix's remittances to Hong Kong.

Read: [A dummy's guide to the Guptas money-laundering allegations](#)

Wanted: a new kickback channel

So if a kickback could not be paid via Homix, then who?

The answer appears to lie in the dirty washing of financial advisory firm Regiments Capital, hung out to dry in rancorous litigation between its directors at the High Court in Johannesburg.

Directors Litha Nyhonyha and Niven Pillay on the one hand, and Eric Wood on the other, fell out after Wood sided with the Guptas and Essa when a Gupta **offer to buy** Regiments fell through.

Though Wood joined Essa in the competing Trillian Capital Partners this year, the two sides are still trying to have each other removed from Regiments' board.

In an affidavit filed last month, Nyhonyha describes, and attaches, evidence he says was discovered after Wood left.

What it shows is this:

On June 4, 2015, days after the Reserve Bank froze Homix's transfers to Hong Kong, Wood received an email from Narayan — the former Gupta manager and self-identified Homix chief executive.

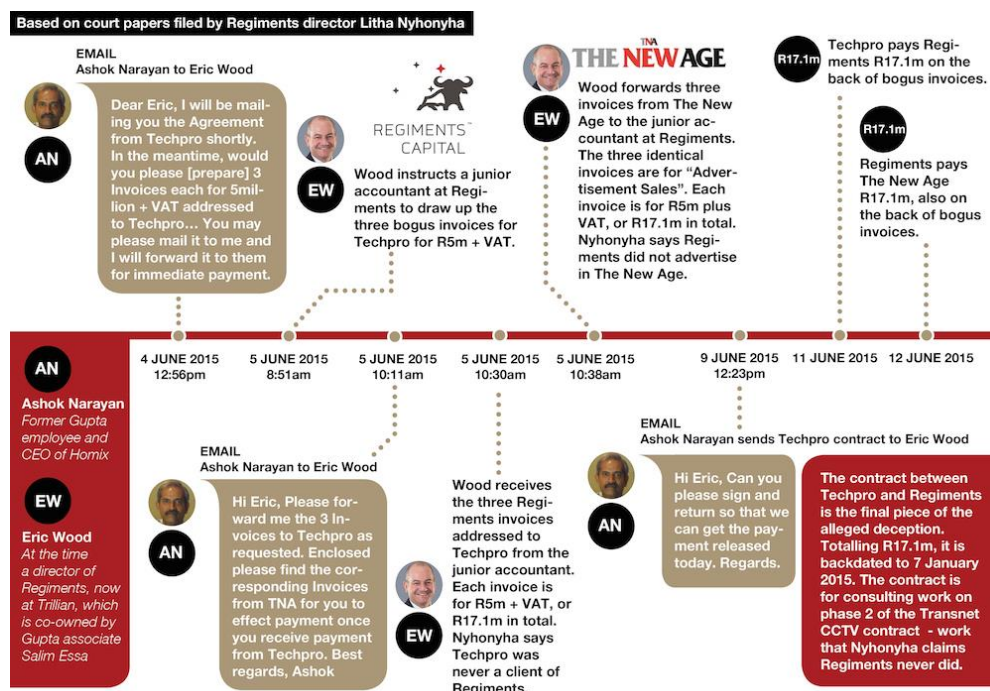
Narayan asked Wood to get Regiments to invoice Techpro, the Neotel CCTV subcontractor, for R17,1 million. Wood complied.

The next day Narayan emailed Wood again, attaching three invoices, also totaling R17,1 million, from TNA, the Gupta media company, to Regiments.

The TNA invoices purported to be for Regiments advertising in *The New Age*.

Next, Narayan emailed Wood an agreement purporting to be between Regiments and Techpro. It was already signed by Techpro and backdated five months to January 2015.

The agreement provided justification, on paper at least, for the Techpro payments to Regiments, saying Regiments would do "cost analysis and financial modelling" for Techpro "in respect of the second phase of CCTV installation at Transnet".



'Fictitious transactions'

Nyhonyha states in his affidavit that Regiments did not advertise in *The New Age* and that Regiments did not provide the claimed services to Techpro.

Wood, he charged, "knowingly allowed Regiments to be used as a conduit for an entirely fictitious set of transactions" to launder money from Techpro to TNA.

Wood denies this, saying his version will be provided when he files a replying affidavit.

But Nyhonyha's version is supported not only by the emails, invoices and backdated contract annexed to his affidavit, but also by a Regiments bank statement which shows the symmetrical flow of R17,1 million from Techpro to Regiments and Regiments to the Gupta company on two consecutive days.

The backdated contract, perhaps carelessly in retrospect, tied the R17.1 million payment to the second Transnet CCTV contract. The amount also ties back neatly to it.

Neotel records show that it recognised R150 million in revenue immediately on getting the contract from Transnet.

R17,1 million — R15 million excluding VAT — is a round 10% of that first year's revenue.

And so, when the R17,1 million washed up at TNA, it not only swelled the Guptas' purse but gave the clearest indication yet they may have been the true beneficiaries of the Homix kickback laundry.

Responses

Narayan and Essa did not respond to requests for comment.

Wood said via a spokesperson: "Suffice to say that all of the allegations made by his former partners are strenuously denied and will be comprehensively traversed in his answer to the court papers which his attorneys are presently preparing on his behalf and which will be filed in short order.

"It would be improper and possibly prejudicial to his case to answer your questions prior to the filing of his answer."

He also said he "would advise that these matters" be left to an independent investigation led by Advocate Geoff Budlender, appointed by Trillian chair Tokyo Sexwale.

Techpro manager Craig Smith said about the allegations contained in the court papers: "As you can imagine it is quite a shock getting this kind of information and we've sent it to [our attorneys] to investigate further."

He added: "Whether the insinuations that you are making are true or not true I don't know.... If there is wrongdoing we want to know about it."

Neotel chair Kennedy Memani said that during the company's initial investigation the board "took all the necessary steps on the basis of what came out".

He said he did not want "to go back to that debate ... unless anything else comes out".

A Transnet spokesperson said the company was "confident in its processes... In addition, Transnet was advised by Neotel that an independent investigation commissioned by Neotel revealed no wrongdoing or corruption by Transnet or any of our executives".

"Please note that Homix is not a Transnet supplier. All matters related to Homix should be directed to Neotel. Transnet has never engaged with Homix or its executives."

He said the confinement of the CCTV contracts was justified by Transnet's urgent need to replace outdated CCTV equipment to comply with international standards and not lose its status as a ports authority.

Neotel was chosen as service provider as the existing infrastructure belonged to Neotel and "the need to integrate new and existing equipment and systems was crucial".

- *The story was updated after publication to include a link to emails from the #GuptaLeaks.*



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