
AFFIDAVIT

I, the undersigned

GEORGE NGAKANE MAGASHULA

do hereby make oath and say –

1. I am an adult male business person whose principal place of business is [REDACTED]
[REDACTED]
[REDACTED].
2. The facts contained herein are, to the best of my knowledge, true and correct and, unless otherwise stated or indicated by the context, are within my personal knowledge.
3. This affidavit is structured as follows:
 - 3.1 First, I outline my employment background at the South African Revenue Services ("SARS").
 - 3.2 Second, I outline my relationship with the Minister of Finance from a governance perspective during my tenure as the SARS Commissioner.
 - 3.3 Third, I discuss the modernisation process.

and was responsible for the construction of strategies and bringing teams together.

7. Around November 2008 I was appointed as the Chief Officer: Business Enablement and Delivery Services. It was under this unit that risk engines began to emerge. This unit fed analytical information to business.
8. On 15 April 2009 three Deputy SARS Commissioners were appointed by the cabinet, namely, myself, Ivan Pillay and Edward Kieswetter. Thereafter, on or about 10 May 2009, former President Jacob Zuma appointed Pravin Gordhan as Minister of Finance, succeeding Trevor Manuel. Ivan Pillay didn't apply for the position and Edward Kieswetter became the Chief Executive Officer of Forbes. I was consequently appointed as the Acting SARS Commissioner on 11 May 2009. I remained in this position until 29 July 2009.
9. I reported to the erstwhile Minister of Finance, Pravin Gordhan, during the period wherein I was the Acting SARS Commissioner. During this period, I would also meet with the Minister of Finance (Pravin Gordhan) every second Monday. Being the Acting SARS Commissioner during this period was a good experience, it gave me an opportunity to understand the role whilst working with the Minister of Finance (Pravin Gordhan) who also knew the role well. He imparted valuable knowledge. To a great extent, this had an element of succession planning to it.



10. On 29 July 2009, I was confirmed as the SARS Commissioner by way of a Presidential Minute.

RELATIONSHIP WITH MINISTER OF FINANCE

11. The relationship between the SARS Commissioner and the Minister of Finance is governed by the South African Revenue Services Act 34 of 1997 ("SARS Act"). Revenue administration is governed by SARS and the fiscal framework and stability is governed by the Minister of Finance. It therefore stands to reason that the two must work closely together. The Commissioner is accountable to the Minister of Finance. It must also be borne in mind that accountability is an important principle in the Constitution.

12. As previously stated I would meet with the Minister of Finance (Pravin Gordhan) twice every second Monday, which is approximately twice a month. Minutes of the meeting would be taken. These meetings also entailed reports being drawn for the benefit of the Minister of Finance (Pravin Gordhan). The issues covered at the meetings generally included the following:

- 12.1 Appointment of Chief Operating Officers.
- 12.2 Changes in the operating model. We couldn't embark on changes to the operating model without the Minister of Finance.
- 12.3 We would discuss the revenue performance of the various tax types.

- 12.4 We would discuss corporate governance issues.
- 12.5 We would discuss Security and Economic Cluster related issues.
- 12.6 We would discuss issues relating to SARS' participation in international tax forums and international travels. For instance, I was the Vice President of the Organisation for Economic Co-operation and Development ("OECD") and also the Vice President of the World Customs Organisation ("WCO") at the time. I was also part of various other ad hoc committees. So I would give feedback to the Minister of Finance (Pravin Gordhan) on things such as the purpose of a particular trip, the benefit derived and outcome of such international travel. I would report on every international trip undertaken.
- 12.7 We would discuss SARS financial reports.
- 12.8 We would discuss SARS' strategy.

13. The Minister of Finance (Pravin Gordhan) would give input and opine on SARS related issues, in particular, on ensuring that as much revenue was collected. I would engage with the Minister of Finance (Pravin Gordhan) organically. In my view, one cannot become a successful SARS Commissioner without an intensive relationship with the Minister of Finance. It is nonsensical to refuse to work with the Minister of Finance.

MODERNISATION PROCESS

14. The modernisation process began in 2001 and was implemented in 2009. The erstwhile SARS Commissioner, Pravin Gordhan did a thorough job in getting buy-in into the modernisation process. He had to get outside players such as the Minister of Finance and the President to buy into the process. He also managed to convince cabinet to set aside a budget towards the modernisation process.
15. There was never any strike action by SARS employees during the entire transformation process at SARS due to the fact that communication was prioritised.
16. The erstwhile SARS Commissioner, Pravin Gordhan, had to be persuasive. SARS employees also had to be re-skilled and trained on how to navigate the new system and updates. It was also explained to SARS employees that there wouldn't be any loss of job's unless one refused to move into the new position created.
17. Before the implementation of the modernisation process in 2009, there were many administrative related complaints when Pravin Gordhan was the SARS Commissioner. In response thereto, he (Pravin Gordhan) created the Tax Ombud. The Tax Ombud was established to enhance the tax administration system during Pravin Gordhan's tenure as the SARS Commissioner. The Office of the Tax Ombud works specifically with taxpayers who have been unable to resolve a service, procedural or administrative complaint through the normal complaints management channels of SARS.

18. During the modernisation process, refunds were paid quickly and assessments were done through e-filing.

OPERATIONING MODEL DURING MY TENURE

19. The operating model as articulated by the erstwhile SARS Commissioner, Pravin Gordhan, did not change during my tenure. All that changed were reporting lines.

20. We needed personnel to be able to execute the new operating model. SARS moved from manual processes to an electronic paperless process. Call centres were introduced, this was a new innovation for SARS. Assessments could also be done timeously and refunds were paid expeditiously. At this stage, SARS had also developed an ability to source third party information directly and quickly from institutions such as banks. This revolutionised SARS operations. This gave SARS the ability to know the answer to questions they posed to tax payers.

21. SARS risk engines also need to be accurate and efficient. This meant that more time should be spent on risky people, for example, someone who hadn't filed their tax returns in 30 years as opposed to someone who hadn't filed a

tax return in 1 year. It was all about how we operate with the tax payer, build knowledge and digitise.

22. The only big change I made was to create the role of Chief Operating Officer. This is due to the fact that during the implementation of modernisation, tax types migrated to e-filing, tax clearance certificates became automated etc. The creation of the role of the Chief Operating Officer was the only tweak I made to the operating model.

23. The Chief Operating Officer created systems. For instance, the Chief Operating Officer created systems for the approval of settlements, he created physical inspection at points of entry. The functioning of the LBC was also enhanced which led to aggressive recruitment in the area of transfer pricing. In my view, the decision to close the LBC didn't make sense. The LBC collected one third of the "Pay As You Earn" ("PAYE"). PAYE is a big chunk of revenue and corporate tax is the second largest tax base. Therefore, the LBC is critical. The Head of LBC sat on the executive committee ("EXCO") due to the critical role and responsibility of the unit. It is important to have a unit dedicated to tax payers such as big corporates, the same equally applies to banks.

RECOMMENDATIONS

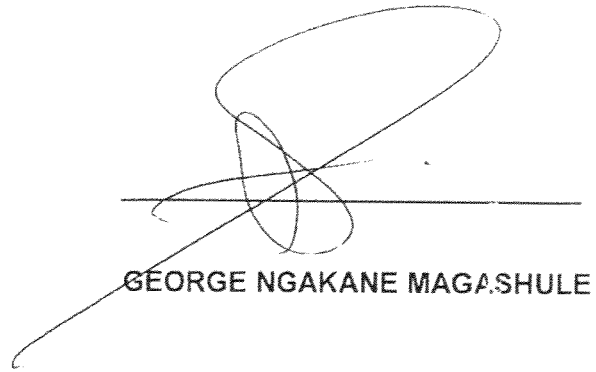
24. In conclusion, I wish to make the following recommendations that may be helpful to the Commission:

- 24.1 There must be succession planning. Provision needs to be made for the appointment of two Deputy SARS Commissioner who would have been at SARS for a reasonable period of time. It doesn't mean that such a person would be the so called anointed successor of an incumbent SARS Commissioner. This would simply allow for SARS to deal with exigencies in circumstances where something happens to the SARS Commissioner, this will also allow for continuity. The Deputy SARS Commissioner's must also be Chief Officers with line functions and members of EXCO.
- 24.2 Strengthen the responsibility of the Minister of Finance over SARS. When it comes to SARS, the Minister of Finance must have the ultimate responsibility. You can't have a SARS Commissioner who is uncooperative with the Minister of Finance. As such, the appointment of the SARS Commissioner must be made in conjunction with the Minister of Finance after having being interviewed by a SARS Human Resources Subcommittee. There must be a statutory provision that requires the the SARS Commissioner and Minister of Finance to have regular meetings.
- 24.3 There must be four eyes watching over settlements or audits. These four eyes must be independent of one another.

- 24.4 There should be better accountability mechanisms such as the preparation of progress reports on a variety of areas so that the Minister of Finance is on top of the moving parts.
- 24.5 There must be an advisory board established to advise the Minister of Finance on matters relating to SARS. The advisory board ought to have quarterly meetings so that the Minister of Finance is well advised. All efforts must go towards revenue collection. Erstwhile SARS Commissioners must sit on this advisory board with the exclusion of those who left under dubious circumstances such as myself. People employed by big corporates should also be excluded from sitting on the advisory board. The selection of board members has to be strict with the intention of attracting respected and credible leadership.
- 24.6 It has to be easier to get rid of the SARS Commissioner. The contract entered into with the SARS Commissioner has to be performance based so that he or she may be dismissed with ease if revenue targets are not met.
- 24.7 The independence of the SARS Commissioner must be strengthened. The SARS Commissioner can't go to political party gatherings. Upon appointment, the SARS Commissioner must resign from any political party membership and cannot attend



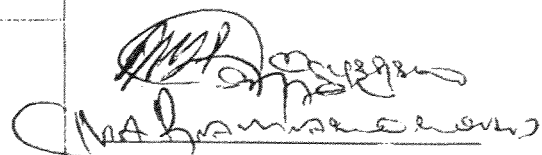
activities of political parties as he or she would expose themselves to undue influence by doing so. Similarly, the SARS Commissioner can't have a relationship with the State President.



GEORGE NGAKANE MAGASHULE

The Deponent has acknowledged that the Deponent knows and understands the content of this affidavit, which was signed and sworn to or solemnly affirmed before me at SUN CITY SAPS on 18 August 2018, the regulations contained in Government Notice No. R1648 of 19 August 1977, as amended, having been complied with.

TIRELO YA MAPOD'ISI A AFRICA BOGWA
2018 -08- 18
SUN CITY
SUID-AFRIKAANSE POLISIEDIENS SOUTH AFRICAN POLICE SERVICE



COMMISSIONER OF OATHS

