

Lihle shabalala

From: Wawa Xaluva <XaluvaMC@eskom.co.za>
Date: 03 November 2017 at 5:49:50 PM SAST
To: Abram Masango <MasangA@eskom.co.za>
Cc: Sean Maritz <MaritzSa@eskom.co.za>
Subject: NOTICE OF INTENTION TO SUSPEND

Hi Abram

Kindly find attached the Notice of Intention to suspend for your information and attention.

Kindly be further advised that I have been duly instructed by Sean Maritz to forthwith to forward this Notice to you.

I trust you will find all in order. Kindly acknowledge receipt hereof in writing.

Wawa Xaluva

NB: This Email and its contents are subject to the Eskom Holdings SOC Ltd EMAIL LEGAL NOTICE which can be viewed at http://www.eskom.co.za/Pages/Email_Legal_Spam_Disclaimer.aspx



Mr. Abram Masango (1063059)
Group Executive: Group Capital

Dear Mr. Masango

**INTENTION TO EFFECT SUSPENSION WITH PAY PENDING AN INVESTIGATION INTO
ALLEGED MISCONDUCTS AND/ OR DISCIPLINARY ACTION**

Allegations have come to Eskom's attention that you may have committed serious misconduct or misconducts relating to, inter alia, an undeclared conflict of interest and generally corrupt conduct in terms of your employment with Eskom.

Eskom has commissioned an investigation into these allegations.

Having regard to the following –

- 1.1. The seriousness of the allegations levelled against you;
- 1.2. Your position and role at Eskom;
- 1.3. The possibility that you may possibly hamper the investigation process;
- 1.4. The possibility that you may possibly tamper with potential evidence;
- 1.5. The possibility that you may possibly intimidate witnesses

I have taken a preliminary decision to suspend your services with pay, with immediate effect. Whilst preliminarily suspended, you are hereby called upon to make written representations to me as to why the preliminary decision to suspend you should not be made final. Kindly submit your representations within two (2) working days of receipt of this letter.

Kindly note that Eskom will on receipt of your representations consider them and in turn make a decision as to whether the preliminary suspension should be made final or should be uplifted. Please note that should you fail to submit the written representations or waive your rights to do so, your temporary suspension will be made final and you will be informed accordingly.

During the period of your temporary suspension you are required to observe the following:

1. You shall not contact any employee, supplier or customer of Eskom. In the event that any of Eskom customers, suppliers and/or employees contact you, you are required to inform them to contact me. No further information should be shared with them that may prejudice Eskom or affect the integrity of the organisation;
2. You shall not perform any work at any Eskom work site and/or enter any Eskom premises for work purposes without an express permission from my office;
3. You may not enter any Eskom premises, utilise and/or remove any property, equipment and documentation from Eskom;

4. You are to co-operate with the investigation process and will ensure that you make yourself available upon request;
5. You will make yourself immediately available to Eskom as and when required; and
6. You shall not ventilate and make comment in the media, including all forms of social media regarding this notice to suspend and the investigation process.

You are required to immediately return to Eskom all Eskom property within your possession and control, including but not limited to your access card, laptop computer and any Eskom documentation.

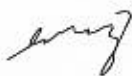
Any contravention of any of the above conditions may lead to disciplinary action being instituted against you.

Should you require contacting Eskom during your suspension period, forward all your correspondences to:

Tel: +2711 800 3915

Email: sean.maritz@eskom.co.za

Yours sincerely



SEAN MARITZ
INTERIM CHIEF EXECUTIVE OFFICER
Date: 3/11/2017

Acknowledge Receipt
Abram Masango
Date:

Lihle shabalala

From: Nicqui Galaktiou | NGinc
Sent: Tuesday, 7 November, 2017 11:58 PM
To: sean.maritz@eskom.co.za
Cc: Kameshni Naidoo; Lihle shabalala
Subject: MR ABRAM MASANGO
Attachments: NGinc Letter to Eskom 07.11.17.pdf

Dear Sir,

Please see attached a letter for your urgent attention.

Please acknowledge receipt.

Sincerely,

NICQUI GALAKTIOU
Director

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NICQUI GALAKTIOU INC.

Date: 07 November 2017

Our Ref: N Galaktiou/K Naidoo/MAS/0001

OFFICE OF THE ACTNG CHIEF EXECUTIVE OFFICER OF ESKOM
MR SEAN MARITZ
ESKOM MEGAWATT PARK
MAXWELL DRIVE
SUNNINGHILL
JOHANNESBURG
EMAIL: MartizSa@eskom.co.za

Dear Sir,

ABRAM MASANGO/ ESKOM HOLDINGS SOC LIMITED

- 1 This firm represents Mr Abram Masango, Group Executive; Group Capital ("our client"). Our client has provided us with a copy of your letter dated 3 November 2017 ("the suspension letter") in which Eskom temporarily suspended him with immediate effect, without any prior hearing.
- 2 Please note that when we refer to Eskom and/or you, the two are referred to interchangeably unless specifically identified.
- 3 It is implicit in your letter that Eskom is well aware of the fact that prior to suspending an employee, it is obliged to give the employee an opportunity to be heard.

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DIRECTOR: Nicqui Galaktiou BA LLB HDIP CO LAW
SENIOR ASSOCIATES: Kameshni Naidoo LLB HON and Megan Ross LLB HON
ASSOCIATE: Kristen Taylor BCom LLB HON
CANDIDATE ATTORNEY: Thembelihle Shabalala LLB HON
OFFICE MANAGER: Claudia Otte

Postnet Suite 120
Private Bag x9
Benmore 2010
South Africa
Docex 32 Rosebank

- 4 We point out that as all suspensions are temporary in nature, the fact that you term this a "preliminary suspension" does not relieve Eskom of the obligation to give our client a prior opportunity to be heard. Eskom is already, as matters stand, in breach of that obligation.
- 5 Your letter purports to offer our client an opportunity to be heard in respect of his proposed "final" suspension, pending an investigation or possible disciplinary action.
- 6 It is obvious that unless our client is given notice of the basis on which Eskom contemplates his further suspension, he is unable to furnish reasons as to why he should not be suspended. In order for the right to be heard to be meaningful, he must know what it is that he is required to address.
- 7 In the suspension letter you record that our client may have committed "*serious misconduct or misconducts*" relating to, inter alia:
 - 7.1 an undeclared conflict of interest; and
 - 7.2 generally corrupt conduct.
- 8 The suspension letter does not set out any details of our client's undeclared conflict of interest or what you view as generally corrupt conduct on his part.
- 9 The fact that Eskom has "*commissioned an investigation into these allegations*" means that Eskom is well aware, at least in broad outline, what the nature and ambit of the allegations are, such that it has been able to formulate a mandate to those instructed to undertake the investigation. There is thus no inability on Eskom's part to advise our client in similar detail what it is that could possibly justify his suspension.
- 10 Eskom's conduct in implementing the suspension without any prior notice or hearing and the fact that Eskom has failed to disclose any details at all, such as to afford our client a fair hearing prior to any decision finally to suspend him, suggests that Eskom intends to suspend him regardless of anything that he has to say.
- 11 We are accordingly instructed to demand, as we hereby do, that our client be given sufficient detail of the allegations against him, however preliminary, so that he is able meaningfully to exercise his right to be heard.

- 12 Our client is a senior employee with long service spanning two decades and an impeccable record. Eskom therefore has no reasonable basis (and none is disclosed in your letter) for the assumption that our client may, unless he is suspended:
- 12.1 hamper or interfere with any investigation you launch;
- 12.2 tamper with any potential evidence; nor
- 12.3 intimidate any witnesses.
- 13 For the record and despite the absence of any basis on which to suggest otherwise, our client undertakes not to do any of the things tabulated in paragraph 12 above. Upon receipt of particulars concerning our client's alleged misconduct and/or concerning the nature and ambit of the investigation launched by Eskom, our client may address this aspect of Eskom's grounds for possible further suspension of our client.
- 14 We are advised that during our client's temporary suspension period he has adhered to the conditions set out in paragraphs 1 to 6 of the suspension letter and will continue to do so. Our client furthermore confirms that he has returned to Eskom all of its property within his possession or within his control, save for his laptop. We are instructed to tender return of his laptop as soon as practicably possible.
- 15 Our client has instructed us that he is not aware of any basis on which he ought to be suspended or face disciplinary action. Our client tenders his full co-operation in any investigation that Eskom undertakes.
- 16 In the circumstances, should Eskom fail to provide our client with a meaningful opportunity to be heard prior to making the so-called preliminary suspension final, or at its election, to lift the current suspension already in place, within two (2) days of this letter, our client will exercise such remedies as are available to him, including urgent relief, if so advised.
- 17 Our client's rights remain reserved.

Sincerely,

NICQUI GALAKTIOU

Director

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Tel: +27(0) 11 592 7050

Fax: +27(0) 86 602 5625

Email: nicqui@galaktiou.co.za



NICQUI GALAKTIOU INC.

Private and Confidential

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TO : Dr Ben Ngubane
Chairman

Date : 01 March 2017

ISSUES OF CONCERN REGARDING THE INTERIM CEO

1. Undermining authority of other Executives

On Wednesday, 01 February 2017, Eskom's Interim CEO, Matshela Koko issued the following instructions:

- 1) Gopal Kambi, a Project Manager for a consultant company at Kusile (ARUP TATA) must be removed from Kusile power station project
- 2) GTC company must be removed from Kusile power station project
- 3) France Hlakudi, Senior Manager (Contract Management) be removed from Kusile power station project. He emphasized that he be exited from Eskom or at least Group Capital Division

The above instructions were issued to the Project Director (Frans Sithole) of Kusile power station project

The Project Director, Mr Frans Sithole reported this to his boss, Abram Masango who went to Matshela Koko with Frans Sithole on 02 February 2017 to understand his reasons but Mr Koko's response was that Mr Frans Sithole must look for reasons for removing these people and if he can't do it, he (Interim CEO) will do it himself.

N.B. ARUP TATA is an Indian company and the removal of Gopal Kambi who is a senior member of the company may create unnecessary tension between India and South Africa in case Arup Tata elevates the issue to Indian government

2. Separation of politics and professionalism

The Interim CEO informed Group Executive Group Capital (Abram Masango) that he is aligned to wrong politicians. He alleges that Mr Abram Masango went to Mpumalanga Premier and the Premier went to the President of the Republic.

3. Undermine Governance and Subcommittees

- 3.1 The Interim CEO removed Kusile Tender Committee Submission (Mandate to negotiate with ERI for Cabling for Units 1-6) and instructed that the scope should be awarded to ABB (C&I Contractor at Kusile).

The mandate to negotiate and conclude a contract with ERI was already presented and supported by Exco Procurement Committee (Excops) and recommended for final approval by Board Tender Committee.

The Interim CEO, blocked the Submission from reaching Board Tender Committee as he is of the opinion that ERI is not capable of executing the scope.

The Group Executive Group Capital (Abram Masango) advised him that he must participate in Excops if he wish to influence these decisions.

- 3.2 The Interim CEO also removed another Kusile Tender Committee Submission (Mandate to negotiate and conclude a contract with WBHO for phase 2) and instructed that the scope must be issued on the open tender basis.

The mandate to negotiate and conclude a contract with WBHO (single source) has already been presented and supported by Exco Procurement Committee (Excops) and recommended for final approval by Board Tender Committee.

The Interim CEO, blocked the Submission from reaching Board Tender Committee as he was of the opinion that the scope must be issued to the open market.

N.B These incidences were brought to the attention of the former CEO as they accrued during the last quarter of 2016,

4. Militarization of Eskom

The Interim CEO, uses the Head of Eskom security (General P. Martin) to follow up on his instructions and this approach is often used in the military. The General phoned Kusile Project Director, Mr Frans Sithole to follow up on the Interim CEO's instructions.

5. Failure to follow process

On 15 February 2017, the Interim CEO, Mr Koko suspended Willy Majola (Senior General Manager Engineering and Acting Group Executive Generation). Apparently, Mr Willy Majola has been suspended due to him not verifying information that the interim CEO requested from the junior staff that reports to Mr. Majola.

6. Private meetings

It is alleged that on Saturday, 04 February 2017, Eskom's Interim CEO, Matshela Koko held private meetings with people perceived to be aligned to him including Prish Govender (General Manager Capital I) who report directly to Finance Director (Anoj Singh). Leaked information reveal that Mr Koko want to remove Abram Masango (Group Executive Group Capital) and replace him with Prish Govender.

Apparently the Interim CEO also indicated that he does not like the following people who are in Abram Masango's department:

- 1) Sfiso Mazibuko (Deputy Project Director, Kusile project)
- 2) Karabo Rakgolela (Acting General Manager, Real Estate Department)
- 3) Peter Sebola (General Manager, Contract Management)

7. Instruction to take leave with immediate effect

On the 24th February 2017, the Interim CEO sent the CFO (Mr. Anoj Singh) to instruct Group Executive Group Capital (Mr. Abram Masango) to take a study leave with immediate effect. The CFO highlighted that even though the course is in April, Mr. Masango ought to take leave for the whole of March 2017 and couple that with study leave in April 2017. The reason given by the CFO is to ease the political tension.

The CFO indicated that if Mr. Masango does not take leave he (the CFO) is afraid the Interim CEO will suspend him (Mr. Masango).

On 28 February 2017, the CFO discussed with Abram Masango the subject again and Abram indicated that he is not going on study leave.

N.B During the meeting, the CFO also indicated that Prish Govender will be acting Group Executive Group Capital when Abram goes on leave.

8. Relationship with Other Exco members

The relationship with between the interim CEO and other Exco members is not good and this if not attended to, it may result in Eskom losing Executives.

There is an allegation that the Interim CEO told some of the Exco members that they will be dealt with later.