



17 July 2018

David Makhura

African National Congress

Acting Gauteng Provincial Chairperson

Per email: dtshivhasa@anc.org.za

Dear Mr David Makhura,

Corruption Watch and Treatment Action Campaign Enquiry: Corruption Findings against Gauteng Provincial ANC Chief Whip, Brian Hlongwa and Others

1. We refer to the above matter.
2. Corruption Watch is a registered civil society organisation that opened its doors to the public in January 2012. We are registered as a non-profit company in terms of the Companies Act 71 of 2008. Corruption Watch seeks to expose corruption and the abuse of public funds. We encourage and enable the public to report incidents of corruption to us and we use these reports as an important source of information to fight corruption in South Africa and to hold leaders accountable for their actions. We achieve this through policy interventions, advocacy initiatives, public mobilisation, strategic litigation and select investigations.
3. The Treatment Action Campaign (TAC) is registered both as a non-profit company (registration no. 2000/029181/08) and a non-profit organisation (registration no. 043-770-NPO). The TAC advocates for increased access to treatment, care and support services for persons living with HIV and/or tuberculosis (TB). The TAC campaigns to reduce new HIV and TB infections and the improvement of health systems in Gauteng and communities around the country.

4. To this end, both organisations are particularly concerned about the pervasive corruption in the public healthcare system. Our whistleblowers, as well as the media, have highlighted the looting of public funds and resources on a mass scale in the health system, including in the provincial health departments. Corruption in health has a direct impact on the delivery of health services and may lead to violations of the right to health by those who rely on the public health system. The Constitution of the Republic of South Africa, 1996 places positive obligations on the state to progressively realise the right to access health care services, within the available resources of the state. The state also has a duty to address the conduct of public officials that squander state resources meant for the delivery of health services. Part of this obligation involves investigation and prosecution of crimes involving corruption.

Background

5. We refer you to Proclamation No. R.21: *Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996): Referral of Matters to Existing Special Investigating Unit and Special Tribunal* issued by then Acting President Kgalema Motlanthe on 7 May 2010 ("**the Proclamation**") in terms of which the Special Investigating Unit ("**SIU**") was appointed to investigate ("**the investigation**") serious maladministration, irregularities, unlawful expenditure of public money and improper conduct by public officials in the Gauteng Provincial Health Department ("**Department**") in the period 1 January 2006 to 14 May 2010. We understand that the final report of the investigation was submitted to President Zuma in March 2017.
6. Following a Promotion of Access to Information request by SECTION27¹ on 14 November 2017, the Office of the Presidency released the final report on 4 May 2018. Corruption Watch and the TAC are currently in possession of the SIU report which forms the basis of this enquiry.
7. The investigation highlights the total unauthorised, irregular, fruitless and wasteful expenditure uncovered by the SIU which amounted to R1 201 681 132.41
8. The SIU Report implicates Brian Hlongwa, former MEC of the GDoH and current Chief Whip of the African National Congress (ANC) in the Gauteng Legislature, for playing an instrumental role in facilitating and abetting corrupt activity at the Department. The Report details the benefits that Hlongwa received, which include:

¹ SECTION27 is a public interest law centre that seeks to achieve substantive equality and social justice in South Africa <http://section27.org.za/>. SECTION27 are the attorneys representing Corruption Watch and the TAC in any legal matters that arise from the outcomes of the SIU Report.

- 8.1. Payments made by private companies, who were rendering services to the Department, towards the purchase of Hlongwa's private residential property at 135 Eccleston Crescent, Bryanston;
 - 8.2. Non-business related travel paid for by a private company, 3P Consulting, to Durban (March and November 2008), Cape Town (February 2009) and Lusaka (September 2009),
 - 8.3. A luxury spa treatment for Hlongwa and his wife, complete with limousine transport, paid for by 3P Consulting;
 - 8.4. Donations by various private companies who were rendering services to the Department to the Western Rangers Football Club, of which Hlongwa was the chairperson.
9. The Report further states that Dr Obakeng Mooketsi, the former Deputy Director General in the GDoH and the head of the Department's Executive Support Programme Management, received kickbacks from private companies in the form of furniture upgrades to the value of R86 273.44. Mooketsi failed to declare these benefits, while serving as a voting member on both the Bid Evaluation Committee (BEC) and the Departmental Acquisition Committee (DAC). Moreover, the investigation uncovered that Mooketsi held a private business account with First National Bank, Account Number 62210145258, in the name of "OS Mooketsi trading as an ANC Fundraising Account"². The SIU found that the money in the account was utilised to pay for ANC related venues, t-shirts for supporters, photography services, catering and equipment hire for parties, rallies etc. The Report states that:

"Amethst, a member of the Baoki Consortium, paid R100 000.00 into this "fundraising account" on 27 June 2009. On 27 March 2009, it made a further two payments in the amounts of R200 000.00 and R5000.00 respectively into the fundraising account."

Corruption Watch and TAC position on matters arising from the SIU Report

10. On 21 June 2018, Corruption Watch, SECTION27 and the TAC publicly released the SIU Report into corruption at the GDoH and called for the removal of Brian Hlongwa as the ANC Chief Whip in the Gauteng Legislature. The press statement can be accessed [here](#).
11. The three organisations' firmly believe that the current collapse in the GDoH can be traced back to Hlongwa's tenure as the MEC. Under his leadership, it is evident that a culture of corruption was developed and still continues to persist within the Department. Thus, we note with concern

² SIU Report, Chapter five, page 23

the view that has been taken by the ANC Integrity Committee to await the outcome of the criminal matter, before taking further action. The SIU Report and the evidence gathered by the various prosecuting authorities present prima facie evidence that can be acted on by the Integrity Committee, despite ongoing criminal proceedings. We thus reiterate our call for the removal of Brian Hlongwa as the ANC Chief Whip in the Gauteng Provincial Legislature,

12. The organisations would also like to place on record that we reject with contempt the utterances made by Hlongwa in a press statement issued on 25 June 2018. The final paragraph notes:

“Contrary to the impression created in the media therefore, the SIU Report is not a new and sensational expose: the Report is a summary of on-going legal process, the detail of which has been in the public domain for the last four years and which, I add, has been regularly reheated at strategic intervals primarily to embarrass the Gauteng ANC.”

Hlongwa’s comments imply that in an effort to expose corruption and raise issues of good governance, civil society organisations with assistance from the media have cooked up a false political conspiracy to tarnish the Gauteng ANC. This statement is factually misleading and counter-productive to the stance that the Premier of Gauteng, Mr David Makhura, as well as the leader of the ANC, President Cyril Ramaphosa, has taken on rooting out corruption in the country.

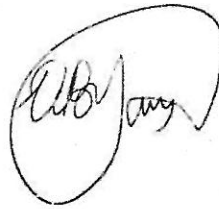
Corruption Watch and TAC Request

13. Corruption Watch and the TAC seek answers to the following questions:
 - 13.1. In light of the evidence presented in the SIU Report, will the ANC Integrity Committee act on the findings of the investigation, in specific relation to Brian Hlongwa?
 - 13.2. Can the ANC confirm that Dr Obakeng Mooketsi is a registered member of the party? If yes, has the ANC taken any action against Mooketsi as a result of his actions whilst at the Department, i.e. has Mooketsi been reported to the ANC Integrity Committee?
 - 13.3. In relation to paragraph nine of this letter, was the ANC aware of the donations received from Amethst? Does the ANC acknowledge that these transactions are viewed as corrupt activity on behalf of Mooketsi and Amethst in order to secure tenders from the GDoH?
14. We attach a copy of the final Report for your information.
15. Kindly provide us with a response by no later than Friday 24 July 2018.

Yours sincerely,

A handwritten signature in black ink, consisting of a series of fluid, connected strokes that form a stylized representation of the name David Lewis.

David Lewis
Executive Director: Corruption Watch

A handwritten signature in black ink, featuring a large, circular loop at the beginning followed by several smaller, connected strokes.

Anele Yawa
General Secretary: Treatment Action Campaign