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■ GUPTA LINK

Shelf company asked for dodgy fee

LOYISO SIDIMBA

A MYSTERIOUS Gupta-associated shelf company demanded a staggering R180 million share of a R1.8 billion services contract awarded to fixed-line telecoms network operator Neotel by state-owned freight and rail transport company Transnet.

Homix, whose representative was a former director of the Gupta-owned Sahara Group, Ashok Narayan, demanded to be paid 10% of the contract but Neotel bosses refused, citing its profitability.

Deloitte audit partner Chetan Vaghela told the Zondo Commission of Inquiry into State Capture that Homix's fee was negotiated down to 2% or R36m (excluding VAT).

He said R91m in payments to Homix amounted to corruption and flouting the Financial Intelligence Centre Act.

According to Vaghela, the reasons for the payment of the initial R36m and another R25m to Homix by Neotel still remained unclear as the agreement was not duly approved and subsequently ratified by the board.

Vaghela told the inquiry, headed by Deputy Chief Justice Raymond Zondo, that Deloitte, Neotel's external auditors, were concerned that every Neotel transaction with Transnet had a Homix element.

He said they became sceptical and suspicious while auditing Neotel's books in 2015 and demanded an explanation for the R36m payment (R41m inclusive of VAT) to Homix.

Vaghela said auditors discovered that another R30m relating to an earlier Cisco deal had also been paid by Neotel to Homix.

"We really wanted to know what Homix did to warrant such fees," Vaghela added.

He said information about the payment to Homix was not fully disclosed and auditors became concerned by the payment.

He described Homix as a shelf company that appeared not to have substance.

Deloitte's investigations established that the payments to Homix had no business and lawful sense and that Neotel's directors and prescribed officers failed to report them to the FIC within 15 business days.

The firm also found that the directors and prescribed officers failed to report corruption in terms of the Prevention and Combating of Corrupt Activities Act.

Deloitte had raised concerns that former Neotel chief executive Sunil Joshi did not have board approval and that his delegation of authority was R10m for unbudgeted expenditure.

"We did not believe he had explicit authority," Vaghela explained.

Deloitte found the payments fraudulent, amounting to theft and breach of the directors' fiduciary duties.

Another investigation by Werksmans Attorneys commissioned by Neotel's board found that the company's former general manager: strategic partnerships, Francois van der Merwe, was the only one who had interacted with Homix.

The probe found that he had engaged in a clandestine relationship with Homix and people linked to the entity between February 2014 and the conclusion of the negotiations in December that year.

Disciplinary action against Van der Merwe was recommended as the probe found he had defrauded Neotel but he had already resigned.

The commission also heard that Neotel paid Homix R30m after claiming the letterbox company had brought the Transnet deal to it. However, Vaghela said the Cisco deal was awarded by Transnet prior to Homix's involvement and that Van der Merwe interjected in the process and included the Gupta-linked firm.

Former national director of public prosecutions Mxolisi Nxasana is expected to testify today.