

Probe into looting of public purse steps up a gear

Efforts to get to the bottom of state-capture allegations received a major boost yesterday (Wednesday) with the announcement of a crack team to run the judicial commission inquiry into state capture, writes **Legalbrief**. Up to now, Parliament has had a hard time getting to the truth, a task made more difficult by denials, outright lies and key witnesses snubbing Parliament's Public Enterprises Committee. While those whom MPs believe can shed light on state capture are merely being 'invited' to appear before the committee, the judicial commission has powers of subpoena. A **HuffPost SA** report notes that as Deputy chief Justice Raymond Zondo unveiled the six commissioners who will drive the judicial commission of inquiry into state capture with him, he said his **desired outcome was to ensure that SA never again experienced the state capture it has suffered**. The report notes that it is unlikely that Zondo's commission can eradicate corruption, but the men and women who will dedicate a lot of this year to uncover what has happened is in itself a triumph of institutional strength and of law over the destruction of institutions in the pursuit of illegal accumulation. The report says the commission will not prosecute, but it can recommend prosecutions – and in order to fulfil Zondo's promise of 'never again', witnesses who volunteer evidence can get immunity from prosecution. **HuffPost SA** says reports suggest many of the looters now running scared are making overtures to turn their coats as SA's biggest effort to turn the tide on runaway corruption gets under way.

An experienced corruption buster will lead the charge. Zondo said former Auditor-General and SA Institute of Chartered Accountants CEO, Terence Nombembe, would lead a multi-disciplined team of investigators. Zondo has appointed Paul Pretorius SC as the head of the commission's legal team. Pretorius has been senior counsel since 1994. According to a **BusinessLIVE** report, Zondo said **the inquiry would have a large number of advocates and attorneys assisting the commission and they would be brought in at various stages**. Advocate Vincent Maleka, who has been a senior counsel for 16 years and has served as an acting judge, will form part of the legal team. Another member will be Leah Gcabashe, who has been an advocate for about 20 years. Gcabashe is the vice-chair of the Johannesburg Society of Advocates and is a former member of the JSC and has also served as an acting judge. Also on the team is Advocate Thandi Norman. She is chair of the Advocates for Transformation in KZN and has served as an acting judge.

Other major points from the announcement, according to a **News24** report, include: Although the commission does not have power to prosecute, it will make recommendations for prosecutions; the team will deal with anyone refusing to give evidence; the issue of witnesses being in Dubai or India will be closely looked into; **evidence provided at the inquiry cannot be used in subsequent criminal proceedings**; certain aspects of the inquiry will not be divulged to the public; the commission will draw on evidence given at parliamentary committees relating to state capture; President Cyril Ramaphosa has been informed that the 180 days provided for the commission to complete its work is not too short.

The commission opted not to reveal the names and identities of the investigators to protect them, says a **City Press** report. However, Zondo said the team will be made up of investigators from various backgrounds. **The investigators under Nombembe are expected to start gathering information in the next two weeks.** Addressing journalists, Zondo said the commission was in the process of securing accommodation and might start sittings in the next few months. Zondo said the commission was empowered to deal with 'hostile' witnesses and had powers to compel witnesses to appear before it.

The latest witness to deny wrongdoing is Ben Ngubane, the former chair of the Eskom board, who appeared before Parliament's inquiry into state capture at the power utility being run by the Public Enterprises Committee, writes **Legalbrief**. Ngubane denied he was part of any wrongdoing at Eskom, refusing to concede that Eskom was riddled with corruption and irregular procurement while he was at the helm of the organisation between March 2015 and June 2017, says a **Business Day** report. **He insisted during questioning in Parliament that he would await the outcome of the judicial commission of inquiry into state capture before passing judgment.** He adopted this position despite evidence indicating the capture of Eskom, ACDP MP Steve Swart said. Ngubane appeared yesterday to answer questions ranging from the contract of former CEO Brian Molefe to the prepayment made to Gupta-owned Tegeta Exploration and Resources. He insisted that procurement at the power utility followed procedures and was executed according to delegated authorities. He also emphasised that decisions were not made by him personally but by the board and its sub-committees. The report notes Ngubane read a lengthy

submission into the record, defending contentious issues as being above board. It was during his tenure that Eskom decided to extend a R1.6bn guarantee to Tegeta and made a prepayment of R659m for coal supplies, which allowed it to buy Optimum Coal Mine from Glencore.

The three Gupta brothers – Atul, Ajay and Rajesh – as well as former President Jacob Zuma's son Duduzane Zuma, have been called to appear before the parliamentary inquiry into Eskom next Tuesday, notes a **BusinessLIVE** report. It says wWhile the Gupta's lawyer, Ahmed Gani, has confirmed to the committee that he would make sure that the Gupta brothers attended the inquiry, ACD MP Steve Swart said **it was 'highly unlikely' that they would appear, especially as some of them were being hunted for by the Hawks** – along with Duduzane Zuma – on charges of corruption related to the Vrede dairy farm project. Zukiswa Rantho, the chairperson of the inquiry that is being conducted by the Portfolio Committee on Public Enterprises, was keen that the Guptas appear before the inquiry, which is due to be wrapped up next week.

Home Affairs Minister Malusi Gigaba is due to appear before the parliamentary inquiry into state capture next week to answer allegations that he facilitated the capture of Eskom by the Guptas and their associates. Another **BusinessLIVE** report says he will appear on either Tuesday or Wednesday next week after having been **given a 10-day grace period to prepare his evidence**. The report says the allegations relate to Gigaba's appointment of suspect people to the boards of SOEs between 2009 and 2014 when he was Minister of Public Enterprises.