**Attention: Mr Mark Pamensky**

**From: Jessica Bezuidenhout**

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**RE: State capture investigations/legal fees.**

**Hi Mr Pamensky. Eskom appears to have paid towards your legal fees, more specifically, legal fees incurred as a result of the various state capture investigations.**

**1.Could you kindly explain why Eskom has contributed towards your legal fees emanating from former Public Protector Thuli Madonsela’s Sate of Capture report.**

Following cabinet’s announcement in October 2016 that procurement responsibilities for the proposed nuclear build programme would be transferred from the Department of Energy to Eskom, I formally raised my concern to Eskom’s board of directors that this may result in a perceived conflict of interest.  I had, prior to my appointment to the Eskom board, disclosed the fact that I also, at the time, served as an independent non-executive director of Oakbay Resources and Energy Limited; which held interests in a uranium mine. As such, I was aware of the fact that a conflict of interest may be perceived and sought to engage with Eskom’s board of directors in this regard. To the extent that the board was of the view that a perceived conflict would be fundamental to Eskom and could not be managed appropriately, I had indicated that I would be willing to tender my resignation as an Eskom director.

Unfortunately, the Minister for the Department of Public Enterprises inexplicably, and arguably unlawfully, then proceeded to publicly announce my resignation notwithstanding the fact that I had not actually resigned.

Around the time of these events, I had recently placed on record (with Eskom’s board) that I was concerned by the fact that certain members of Eskom’s management and board of directors had failed to inform the board of directors of the fact that the Public Protector had issued correspondence to Eskom’s board of directors relating to the investigation into allegations of state capture at Eskom. This correspondence contained a series of questions for Eskom’s board of directors, some of which were specifically directed at me regarding the incorrect notion held by the Public Protector that I held a personal financial interest in Oakbay Resources and Energy Limited. Not only did Eskom’s management fail to inform me and my fellow directors of this correspondence, but they saw fit to respond on my behalf without prior consultation. Accordingly, I was denied an opportunity to respond to the incorrect assertions made by the Public Protector in her correspondence, and as such greatly prejudiced in this regard when the Public Protector’s report was released in early November 2016.

I was in the process of engaging with Eskom’s management in this regard, particularly in relation to documents that I would require for a legal challenge of the Public Protector’s report. Notwithstanding several requests to Eskom’s management for these documents, I had yet to receive the information that I was lawfully entitled to. This process was then interrupted by the Minister’s surprise announcement referred to previously. Eskom and its board of directors were placed in an unfortunate position as a result of these actions, and I, personally, was again prejudiced by the actions of Eskom’s management and now, the actions of the Minister.

Eskom was under great pressure at the time as a result of the inferences contained in the Public Protector’s report, and I was of the view that it would not be in the best interests of Eskom or the country for the above matters to be drawn out, especially in the view of the public. Accordingly, Eskom and I entered into a settlement agreement in terms of which I would formally resign, and Eskom would provide me with access to the aforementioned documentation that I required, as well as settle expenses arising from legal proceedings relating to the Public Protector’s matter given that I had not been given an opportunity to make representations to the public protector as a result of Eskom’s failure which in turn caused me great harm.

Eskom’s management, to date, have not provided me with access to any of the documents that I am entitled to view, furthermore, they have only settled a portion of the legal fees that I have incurred in relation to this matter.

**2.Kindly indicate whether such payments were only in respect of your response the PP’s State of Capture report or whether it involved legal fees incurred for other matters as well. If so, kindly specify.**

Only State Capture in relation to the settlement agreement where Eskom agreed to pay my fees arising from their own failure.

**3.Were any of the payments by Eskom in lieu of legal fees in respect of a criminal case opened against you by civic organization, Outa or any other legal applications?**

No.

**4.Were any of the payments by Eskom to your attorneys in lieu of legal fees incurred as a result of the information that surfaced in the Guptaleaks and which appear to show you sharing confidential Eskom information with the Guptas and some of their senior staff.**

I deny that any of the emails that have been disclosed show that I shared Eskom’s confidential information with Gupta and any Oakbay senior staff or that there are any emails in this regard as no such sharing took place.

In response to your question – the payments were not in lieu of any legal fees which I incurred as a result of reckless and unfair statements that I shared confidential information.

**5. The Guptaleaks suggest you provided such confidential information to individuals and entities with whom you had a pre-existing business relationship with. Kindly comment on claims that this alleged conduct by you is in violation of the Companies Act, the PFMA, Precca and Poca.**

This is denied. Please refer me to exactly which leaked emails you are referring to. It is not correct to make such a sweeping statement without referring to specifics. No such specific emails exist because I did not leak any confidential information.

**6. Are you confident that it is perfectly ethical for Eskom to fund litigation or legal matters of individuals, like yourself, accused of having failed in their fiduciary duties to act in the best interest of the state owned company insofar as they may have abused their position on the Eskom board to further the interest of private companies in which they have/had a direct interest in.**

I am confident that my agreement with Eskom arising from their failure in relation to the State of Capture report is valid. Based on the representations made to me by Eskom that I would receive funding for legal fees and co-operation with information, I agreed to resign without drawing Eskom into further disputes. Eskom has reneged on this agreement.

**7. Information suggest that your attorneys invoiced Eskom for an amount in excess of R1million for legal fees after your departure from Eskom. Could you please indicate how much of this was paid by Eskom vs what you may have settled out of your own pocket.**

Eskom settled approximately R300,000.00 of my legal bill and then did an about face leaving me with significant advocate and attorney bills from the State Capture.

**8. Are you aware of any other former directors who obtained the cost of legal fees from Eskom as a result of the ongoing state capture investigation. I understand that Eskom has a legal duty to fund legal expenses in respect of directors (current and former) where such directors may be cited in official investigations and legal matters involving the state owned enterprise insofar as the execution of their official duties are concerned.**

Please ask the other directors themselves.

**9. Finally, Eskom funded security at your private home, at your request, in the immediate aftermath of the PP’s State of Capture report being released – a request that seems to have coincided with your resignation from Eskom. In this regard, please could you indicate whether that was the first or only time during your tenure as a non-executive director that you enjoyed security at the expense of Eskom.**

Eskom performed a risk and threat assessment around that time period. Based on the results of that assessment, Eskom provided security services. This was for a short period.

**10. Finally, was there a significant risk to your security in the wake of the PP report having been released. Has that situation changed now?**

See above

**Kindly note that I would require your response to the above by 2pm on Monday, April 30 2018 in order to incorporate such into an upcoming article.**

**Sincere thanks**

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