



Charges against the accused....



HOD
Mr Nic Van Staden



CFO
Mr Kweku Odame-Takyi

CHARGE 1

You have contravened rules, prescripts, regulations and/or the code of conduct for the public service in particular the SMS handbook, when you improperly and irregularly appointed consultants and /or contractors for the construction of various roads in the North West Province in respect of various capital projects with such appointments going beyond the current financial year.

You are therefore guilty of gross misconduct.

CHARGE 2

You have contravened the prescripts, of the Public Service Act, the Public Service Regulations and the code of conduct for the public service in particular the Senior Management Service ("SMS") as contained in the SMS handbook as well as the provisions of section 217 of the Constitution of the Republic of South Africa Act 108 of 1996 ("the Constitution") and section 145(1)(b)(c) of the Public Finance Management Act ("PFMA") in that you failed to exercise prudent management of the financial resources and/or resources of the Department in awarding various roads capital projects within the North West Province under the guise of "emergency contracts" and without following proper procurement processes.

You are guilty of gross misconduct.

CHARGE 3

You have contravened the prescripts, of the Public Service Act, the Public Service Regulations, rules and code of conduct applicable to the public service and in particular senior management Service ('SMS') by improperly and irregularly managing variation orders on various roads projects within the North West Province and thereby prejudicing

the financial management of the Department in respect of the roads infrastructural projects.

You are guilty of gross misconduct.

CAHRGE 4

You contravened section 45(1)(b)(c) of the Public Finance Management Act (“PFMA”) in that you failed and/or neglected to act responsibly in order to ensure the effective, efficient, economical and transparent use of financial and other resources of the government and/or the Department within your official area of responsibility.

You have failed to take and appropriate steps to prevent within your area of responsibility, any unauthorized expenditure, irregular expenditure and fruitless and wasteful expenditure which was ultimately incurred by the Government and/or State and/or Department.

You are guilty of gross misconduct

END

Charges against Chief Director: Roads Management....



CHARGE 1

You have breached the provisions of section 217 of the Constitution of the Republic of South Africa Act 108 of 1996 (“the constitution”) in that:

You failed to follow a fair and transparent procurement system in the provision of services or awarding of tenders and/or employment of service providers in respect of various road construction within the North West Province;

You contravened section 45(1) (b) (c) of the Public Finance Management Act (“PFMA”) in that you failed and/or neglected to act responsibly in order to ensure the effective, efficient, economical and transparent use of financial and other resources of the government and/or Sate and\or the Department within your official area of responsibility;

You have failed to take and appropriate steps to prevent within your area of responsibility, any unauthorized expenditure, irregular expenditure and fruitless and wasteful expenditure which was ultimately incurred by the Government and/or State and/or Department;

In that, on 20 October 2008 you caused the DPC to extend for a period of 4 months and to include Roucomm Systems, Moseme Construction and Kaulani Civils in the expired list of constructors that have been appointed to do emergency road patchwork, potholes and maintenance without following procurement procedures in place, resulting in the department contracting with the said companies to the tune of R424 240 000.00 when you have in fact misrepresented either intentionally or negligently that the amount of R30 000 000.00 was set aside for the CAPEX budget;

You are therefore guilty of gross misconduct.

CHARGE 2

On 29 July 2008 you provided false information to the DPC to the effect that, the jetpatcher machine from Raliform will cost the department R1 800 00.00 whereas you made the department to pay Raliform the amount of R9 690 000.00 for the machine. The jetpatcher machine would have cost the department R1 200 000.00 per unit excluding VAT from Jetpatcher (Pty) Ltd who had demonstrated the machine's capability to the department's officials, including yourself.

As a result of your conduct, you have caused the department to incur fruitless and wasteful expenditure.

You are therefore guilty of gross misconduct.

ALTERNATIVE TO CHARGE 2

You have contravened the provisions of section 45(b)(c) of the PFMA in that you failed to act responsibly in order to ensure the effective, efficient, economical and transparent use of financial and other resources of the government OR State or Department, when on or about 29 July 2008 you provided false information to the DPC to the effect that the jetpatcher machine from Raliform will cause the department R1 800 000.00 while it caused the department to pay Raliform R9 690 000.00 for the machines at the time aforesaid, you knew or you ought to have known that the aforesaid machine would merely cost the department R1 200 000.00 per unit excluding VAT from Jetpatcher (Pty) Ltd which had made demonstration of the machines capability to the department's officials including yourself. As a result of your misrepresentation the department suffered actual prejudice by paying R 9 690 000.00 when it could have paid R1 200 000.00 per unit excluding VAT.

You are therefore guilty of gross misconduct.

CHARGE 3

On or about 29 July 2008, you caused the department to pay Raliform R2 442 500.00 for a jetpatcher machine that the department could have otherwise purchased from the Jetpatcher (Pty) Ltd for R1 200 00.00 excluding VAT. In doing so, you directly or indirectly accepted or agreed to be offered and to accept any gratification from Raliform for the benefit that was not due to you.

Your conduct aforesaid constitute corruption and in violation of the provisions of section 3 of the General Offence of corruption read with the provisions of section 4(1) of the Prevention and Combating of Corrupt Activities Act No.12 of 2004.

CHARGE 4

On or about February 2009, you misrepresented to the department by which you caused the department to procure 100 drums of bitumen cationic emulsion 65 and paid Raliform Investment Holdings (Pty) Ltd R282 013.20 which it could have paid R77 976.00 for the same quantity had the department procured from Tosas (Pty) Ltd. As a result of your misrepresentation and/or conduct you caused the department to suffer actual prejudice and financial loss in the sum R204 037.20.

You are therefore guilty of gross misconduct.

CHARGE 5

On or about February 2009, you misrepresented to the department by which you caused the department to procure 100 drums of bitumen cationic emulsion 65 and paid Raliform Investment Holdings (Pty) Ltd R282 013.20 which it could have paid R77 976.00 for the same quantity had the department procured from Tosas (Pty) Ltd. As a result of your misrepresentation and/or conduct you caused the department to suffer actual prejudice and financial loss in the sum R204 037.20.

You are therefore guilty of gross misconduct.

CHARGE 6

On or about 10 November 2008 you provided false information to the DPC to the effect that, Raliform was a sole supplier of bitumen cationic emulsion 65 which resulted in the department paying R2 890.64 per unit whereas in truth and fact the department already had an existing contract with Tosas (Pty) Ltd to provide bitumen cationic emulsion 65 at R779.76 per unit.

Your conduct constitute misrepresentation which caused the department to suffer actual loss in the sum of R 844 352.40 in that, the department procured 400 drums of bitumen cationic emulsion 65 and paid Raliform Investment Holdings (Pty) Ltd R 1 156 256.40 when it could have paid R311 904.00 TO Tosas (Pty) Ltd for the same quantity.

You are therefore guilty of gross misconduct.

CHARGE 7

On or about 29 April 2009 you improperly and irregularly appointed the following companies, Godirela Civils which paid R2 969 561.05;

Kaulani Civils, which paid R5 047 310.85 and Moseme Road Construction which paid R944 286.66 in terms of Tender No.NW062/05 and 061/05 respectively to do emergency patchwork and potholes without following procurement policy.

Your conduct was in breach of section 45(1)(b)(c) of the PFMA.

You are guilty of gross misconduct.

CHARGE 8

On or about 18 June 2009, you authorized the appointment of consultants to do scoping for projects and also initiated and committed funds for projects that were not listed in the infrastructure projects management plan, thereby committing the department to embark on irregular and /or wasteful expenditure as the projects were not budgeted for.

As a result of this conduct, you have made guilty of gross misconduct.

CHARGE 9

On or about 29 April 2009, you improperly and irregularly, appointed Kaulani Civils and Moseme Road Construction to do Patchwork and repairs of various roads in Rustenburg at the cost R5 552 061.03 AND r1 653 273.63 without following procurement procedures in place.

As a result of your conduct, the department suffered prejudice. You are guilty of gross misconduct.

CHARGE 10

You are guilty of gross misconduct alternatively misconduct in that you prejudiced the administration, discipline and/or efficiency of the department in that during 2009 you caused the department to pay various service providers, sums of money which would not ordinarily have been due to the said service providers in disregard of the provisions of the Public Servant Management Act, thereby depleting the construction budget by 97.8% before the end of the financial year which resulted in the department being unable to realize the department's mandate in that financial year.

You are therefore guilty of gross misconduct.

END