

AMABHUNGANE

ATTENTION: Micar Reddy

EMAIL: micar@amabhungane.org

RE: REFERENCE TO QUESTIONS POSED BY AMABUNGANE TO Z. MOTI

["MOTI QUESTIONS"]

INTRODUCTION & BACKGROUND

1. On the 14th March 2023, I responded to questions posed by The Sentry, which response I believe is in your possession.
2. In any event, a copy of same is attached herewith for ease of reference.
3. Upon receipt of your questions, you confirmed via WhatsApp message that my response should be limited solely to reference made to myself in the Moti questions as the requirement by you is that Moti answers the questions.
4. My response accordingly, must also be read with my aforesaid response to The Sentry team, as your questions in the Moti letter are in substance and form substantially the same. I reiterate, in particular, my concerns stated therein, which are also applicable to the current questions posed.
5. More pertinently, I requested the documents where reference is made to me in the Moti letter (having explained to you and The Sentry team that I do not have access to same).
6. You declined my request on the basis that "*as a matter of media law, we are only obliged to put the essence of the allegation to the subject, with sufficient particularity (my emphasis) to enable them to respond as a matter of fairness*". You believe that you have done so.
7. Accordingly, I humbly submit that you have not put the essence of the allegation with sufficient particularity and this will be demonstrated in my response below. Accordingly, the approach that you have taken in your refusal to my request is patently unfair.
8. As with The Sentry, I am alive to the fact that you will publish your article with or without my response and accordingly, I am forced to take the risk of responding to the questions pertinent to me without the benefit of any documents or allegations that are made with sufficient particularity to enable me to respond in a coherent and complete manner.

TIES TO ZIM ELITES

9. I believe that there is a *lacuna* in your understanding of how the Zimbabwean political structure operates and perhaps a brief explanation would give you the benefit of a clearer picture in the context of your questions.

10. At the time of the Mugabe regime, there were 2 (two) Vice Presidents (“VP’s”), one of which was the current President. Each of them had their own Ministerial portfolios for which they were responsible and the ultimate decision on matters pertaining to same vested with the respective Vice President (“VP”).
11. In the case of the Ministry of Finance and Mining Development, these Ministries vested with the then VP, Mnangagwa which formed part of his portfolio. As ACF had NPS, it was his function to streamline all regulatory processes for ease of business where companies invested FDI. This was aimed at troubleshooting difficulties experienced by foreign investors such that foreign investment in Zimbabwe was encouraged. This applied to all foreign direct investors who brought in FDI and was not exclusive to ACF. I trust that this clarifies your understanding.

AD PARA 1.11.

12. Firstly, I do not have access to the document dated 31st March 2016 and the particularity and context that you supplied, is scanty. In addition, the context that you have furnished is slanted to meet a narrative which is clearly biased.
13. You will recall that we applied for the Diesel rebate and this is fully explained in my response to The Sentry. This request from me to the, then VP, in line with Paragraph 10 & 11 above, was conduct in the normal course and not unfamiliar to the processes for foreign direct investors.
14. In regard to the second part of the paragraph relating to VAT, the difficulty envisaged with the revenue department (ZIMRA), to the best of my recollection, from a cash flow perspective related to its inability to make payment of VAT refunds due to ACF.
15. In essence, there was compliance by ACF in its payment of VAT and non-compliance by the Zimbabwean Government to process and pay refunds. As ACF had NPS, we requested that there be a set-off to enable efficient and effective cash flow for both ZIMRA and ACF. Again, this conduct and request was in the normal course and not an unfamiliar process for foreign direct investors.
16. More importantly, this request was refused, which demonstrates a clear and unequivocal application of discretion used, which did not always favour ACF. This further demonstrates that the narrative you seek to achieve is without any basis.

AD PARA 1.12.

17. Firstly, I do not have access to the Letter dated the 21st June 2016 and the particularity and context that you supplied, is scanty at the very least (you chose a portion of a sentence in a letter 2016 and expect me to respond to same, knowing that I do not have access to this letter).
18. Having said that, in my response to The Sentry, there was a rigorous process to obtain the export permit for chrome. This required various departments (I think eight) with their respective specialties to approve the permit with the final approval of the permanent secretary of mines or the minister of mines.

19. In this instance, (to the best of my recollection) all the departments furnished their approval save for the final approval by the permanent secretary of mines and/or the minister of mines which for no cogent reasons, did not want to approve the permit.
20. Again, in line with Paragraph 10 & 11 above, we raised the issue with the then VP to assist in expediting the process such that ACF could continue with its exports. You will understand, from a business perspective, you cannot produce if you are not in a position to on-sell (in this case by export) if you do not have a permit whilst carrying operational costs of over 1000 employees.

AD PARA 1.13.

21. Firstly, I do not have the email dated 11th February 2017 and the particularity and context that you supplied is, once again, scanty and lacks particularity. I do not, accordingly, have an independent recollection of the email to which you refer (which email you have politely declined to furnish).
22. I have explained my functions *vis-à-vis* ACF in my response to The Sentry in some detail. To the best of my knowledge and recollection, I was responsible to report to the Ministries and the then VP on the Diesel usage that was obtained via the Diesel rebate and the requirements of such rebate were extremely strict in that one could not sell nor gift the Diesel obtained by virtue of the rebate to third parties.
23. I have a recollection of making the point to the Plant operators that Diesel obtained through the rebate should only be utilized for production purposes and no other reason.
24. I have a recollection whereby I engaged the then VP to advise his wife, Auxilia Mnangagwa, not to interfere in any way with plant operations directly or indirectly. At that meeting, Auxilia was present and to the best of my recollection, this was her only visit.
25. I cannot respond to any of the other allegations therein as that did not form part of the purview of my mandate and I am certain that others may have responded thereto.

CASH FOR INFLUENCE: AD PARA 5.3

26. You have not furnished me with the June 2017 Memo to which you refer nor sufficient particularity for me to adequately respond to the allegations therein.
27. From my recollection, the context relating to this matter was as follows:
- 27.1. Moti laid charges against Isaeev in Zimbabwe which resulted in an Interpol warrant for Isaeev, amongst others.
 - 27.2. Zimbabwe did not have an extradition treaty with the UAE and in the absence of such a treaty, Zimbabwe was required to enter into an extradition agreement (bilateral agreement) with the UAE.

- 27.3. Although there were various correspondences between the two governments, UAE were not forthcoming with an extradition agreement that would allow for the extradition of Isaeev.
- 27.4. As the then advisor to the Moti Group, I was informed by the office of the prosecutor in Zimbabwe that a UAE citizen was detained in Zimbabwe for some or other offence and that the UAE government were seeking his release.
- 27.5. The office of the prosecutor requested me to engage and present to VP Chiwenga (together with them) a request for a possible prisoner exchange. This request was presented and after consultation that VP Chiwenga had with the department of justice, home affairs and other departments, the request was declined.
- 27.6. The request was not out of the ordinary and in line with normal protocol for this type of matter. In addition, it was fully transparent and hence, reduced to writing in the form of a Memorandum.
- 27.7. More importantly, the refusal of the request is testament to the fact that there was no 'cash for influence' scheme of sorts to achieve particular outcomes.

PRISON IN GERMANY

28. At the outset, I must advise that the context and particularity of the information you provided is shockingly lacking, for me to properly deal with the slanted extracts of phrases that you have provided and which are in some instances barely full sentences.
29. Having said that, I have extrapolated 3 (three) main themes and narratives that you perpetuated. I will respond to each to the best of my knowledge and recollection in the absence of having access to documentation which you have failed to provide.

Theme 1: Kuda *qua*-shareholder

30. As you are aware, Kuda is a shareholder in ACF.
31. As shareholder, he had responsibilities in relation to working capital, capex and other related payments in ACF, and ACF related investments.
32. These financial obligations were managed by the Treasury department and not by me.
33. As a result of the arrest of Moti in Germany, I was requested to approach Kuda to make payments in terms of his obligations which were previously agreed with those responsible in the Treasury department.
34. In the absence of Moti, I was requested to approach Kuda in this regard and he indicated that he had queries on the "numbers", meaning the quantification of his obligations from a cash flow perspective and so forth.

35. He undertook that he would resolve those matters with Moti himself upon his release. This was “cold comfort” as the business of ACF had to continue and there was no indication at that stage as to when Moti would be released (if at all).
36. Accordingly, and in order to facilitate the proper functioning of ACF and its requirements for cash flow of which he was acutely aware, he proposed a loan instead (almost akin to a bridging loan) until Moti’s release. There were discussions on other proposals made by Kuda which did not come to fruition. Part advance was made by him and the balance was not forthcoming.
37. Upon Moti’s release, how this loan was treated was a treasury and accounting function to which I cannot speak as that was not part of my mandate.
38. As ACF had NPS (and as indicated fully in my response to The Sentry), I was responsible to report to the President’s office (which included the President and VP Chiwenga who was now responsible for the mining portfolio and NPS) which report included the financial status of ACF as a foreign direct investor.

Theme 2: Special Grants

39. There appears to be a lack of understanding on your part in regard to Special Grants (“SG”) and the Zimbabwean government’s undertaking in this regard.
40. Mining rights are obtained either by Mining Claims (“MC”) or SG. It is important to differentiate between the two. MC are purchased from third parties and are much smaller in size than an SG.
41. An SG is obtained by virtue of an application to the Ministry of Mines and approved by the President’s office.
42. The Ministry of Mines, during the Mugabe regime was headed by the then Minister Chidakwa. He had no experience in the private sector nor in mining. His replacement in the Mnangagwa regime was Minister Chitando who had tremendous experience in the mining sector from his involvement in the private sector.
43. It is important to understand that in order to mine in large scale, as in the case for ACF, it is important to viably do so where the MC are contiguous (meaning that there are no private owners of MC in the midst of your many claims which you are mining in large scale).
44. Minister Chitando was of the view and undertook, with the President’s office, that, where there were large scale miners, his Ministry would facilitate the acquisition of those claims for the large-scale miners (such as ACF but not exclusive to ACF – it depended on where your mine was situated) such that those companies were able to viably extrapolate the resources for the benefit of the country.
45. As a concomitant policy, to assist large scale miners, they also agreed to award SG to such companies such that they could have larger tracts of land (which were much larger than MC) to mine and extract the resources for export purposes (I have explained in my response to The Sentry the full economic rationale and *quid pro quo* to the Zimbabwean government).

46. In the absence of Moti, Kuda, a shareholder of ACF had the responsibility of interfacing with the President's office and the Ministry of Mines to ensure that this allocation and facilitation, as promised in terms of government policy, was adhered to in relation to ACF.

47. Accordingly, discussions in this regard took place in Zimbabwe, particularly in the mining industry, with much regularity with the government to boost the mining industry after Mugabe's demise. Hence, there was special treatment exclusive to ACF and nor do SG mean special funding of sorts from the government as you implied in your question.

Theme 3: Discussions with the Presidency and Vice Presidency

48. I have fully enunciated in my response to The Sentry my mandate and the reasons for my discussions with the office of the Presidency, and I refer you to same.

General

49. There are other references to specific aspects that are raised in this section which require a brief explanation.

AD PARA 7.1

50. It is correct that I requested President Mnangagwa to facilitate a meeting with myself and President Ramaphosa of South Africa, to assist in Moti's release. Moti was arrested unlawfully and this was subsequently vindicated by his release and the Interpol release statement. At the time, the South African government, in my view, did not play its part in Moti's release. No meeting took place between myself and President Ramaphosa as President Mnangagwa did not want to get involved in the internal matters between South Africa and its citizen.

AD PARA 7.13

51. The only knowledge and recollection I have in this regard related to, the Purchase of either MC or SG from Supa Mandiwanzira to which I made reference in my response to The Sentry previously.

52. I do have knowledge nor recollection of references to the other persons referred to in this paragraph.

FINAL REMARKS

53. I trust that the above response together with my response to The Sentry dispels any notion of impropriety (from information and background provided together with the context) in my relationships with the office of the Presidency in Zimbabwe.