

Media Statement



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TO: ALL MEDIA

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RE: NPA WINS FORFEITURE IN SAPS R50m TENDER FRAUD

The Asset Forfeiture Unit (AFU) of the National Prosecuting Authority (NPA) successfully applied for a court order for R50m which is proceeds of tender fraud. The Gauteng High Court granted the order on 15 May 2020, declaring forfeit to the state, the credit balances and interest accrued in respect of various bank accounts held in the names of Vatika Trading and Projects (Pty) Ltd, Argan Automotive Mechanical Innovation Towing (Pty) Ltd, Gautools (Pty) Ltd, Kgotho Trading Enterprise 18CC and Umbanatie Trading and Projects CC.

Vatika Trading and Kgotho Trading Enterprise, cited as 1st and 4th respondents, were found by Acting Justice Barnard to have made false and fraudulent misrepresentations in their tender bid to the South African Police Service (SAPS), as a result of which the National Tender valued at R50 million was awarded to them. The tender was for branding of SAPS vehicles despite the fact that the respondents did not meet the BEE requirements. The 1st respondent was 100% white female owned and the latter did not meet the requirements to be exempted as a Micro-enterprise because it had, at the time, an annual total revenue of more than R38m for the year 2018. On receipt of the tender funds, the 1st and 4th respondents laundered them to the 2nd and 3rd respondents' bank accounts.

More than R56 million was paid in total to the respondents, despite the fact that the financial implications of the tender were only R50 million, an amount that already included Value Added Tax (VAT). Both SAPS and the South African Revenue Service (SARS) suffered prejudice as the 1st and 4th respondents were not registered as VAT vendors, nor were they registered for VAT at the time the tender was awarded, hence they failed to pay Value Added Tax (VAT) despite charging SAPS VAT on all their invoices.

AFU's forfeiture application was based on the fact that the credit balances and interest accrued in the bank accounts were proceeds of unlawful activities (i.e. Fraud and/or Money Laundering in contravention of Chapter 6 of the Prevention of Organised Crime Act) and that the bank accounts were instrumentalities of the offence of fraud and/or money laundering. AFU viewed the deposits into the bank accounts as another looting of state coffers.

The tainted bank accounts were subject to a preservation of property order granted by Justice Tuchten of the Gauteng High Court on 18 December 2018, where he ordered that all accounts should be placed under the control of FNB and Standard Bank. Senior State Advocate Suna de Villiers further submitted that there was no need for the appointment of a curator bonis since the accounts were in the control of the banks. Both banks have now been directed to pay the current balances into the Criminal Assets Recovery Account (CARA), where they will be utilised to bolster law enforcement.

Acting Justice Barnard remarked that he was convinced that all the respondents were involved in a well-orchestrated scheme to defraud SAPS and to launder the money to ensure that the origin thereof was not detected. The respondents failed dismally to provide any proof of services they were expected to render to the SAPS.

The NPA frowns upon such concerted criminality and will continue in the fight to rid government of corruption, and will not hesitate to use its asset recovery powers to reclaim the state.

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