

Minister Patel must come clean on Competition Commission forensic audit

By Michael Cardo MP - DA Shadow Minister of Employment and Labour

Honourable Chairperson,

I would like to congratulate Minister Patel for conquering the commanding heights of the Department of Trade and Industry. This was indeed an impressive New Dawn raid, launched from the small but redoubtable outpost of what was once the Economic Development Department.

But as he surveys his expanded empire, Minister Patel should pay particular attention to one of his more worrisome wards.

I am referring, of course, to the search-and-seizure happy Competition Commission, which recorded deficits of R78 million in 2016/17 and R69 million in 2017/2018. The Commission's irregular expenditure ballooned to R133 million over the previous two financial years.

It is time, Minister, to seize the moment and answer some searching questions. For the Competition Commission is under a cloud of suspicion, mired in allegations of corruption, patronage and anti-competitive procurement procedures.

I first requested an independent inquiry into these allegations exactly a year ago.

This followed parliamentary questions that I submitted to Minister Patel. His answers revealed that Ndzabandzaba Attorneys, whose principle partner Anthony Ndzabandzaba used to work in the cartel's division at the Commission, received R72m in payments from the Commission between January 2015 and August 2018.

Ndzabandzaba's firm was channelled 70% of all cartel cases outsourced by the Commission in that period.

According to the Auditor-General, of the Commission's R40 million irregular expenditure in 2016/17, R13 million (or one third) made its way to Ndzabandzaba Attorneys. In 2017/18, of the Commission's R86 million irregular expenditure, over R29 million (again, one third) went to Ndzabandzaba Attorneys.

The ineluctable conclusion is that Mr Ndzabandzaba is at the centre of an elaborate patronage network at the Commission. The overlapping strands of the web extend to dawn raids, forensic services and legal work.

In February this year, National Treasury indicated that a forensic audit of these and other irregularities was underway.

Indeed, Treasury announced in the Budget Review that it had put on ice an amount of R125 million set aside for the Commission to investigate cartels, pending the completion of the audit.

Minister Patel has tried to play down the issue by promising that an independent panel led by Malatji Kanyane Attorneys would investigate procurement concerns. But this panel was actually established to assess the competition authorities' capacity to implement the Competition Amendment Act.

Minister, we need to know the outcome of the forensic audit. Who conducted it? What is their forensic expertise? What will happen to those who turned the Competition Commission into a patronage

trough for their comrades? In a confidential letter from National Treasury to the Director-General of the Economic Development Department dated 18 December 2018, a copy of which I have seen, the objectives of the forensic investigation are set out in detail.

They include, and I quote verbatim:

- Determine what measures the Commission has taken to recover...irregular expenditure from the officials responsible and if any disciplinary steps have been taken;
- Determine whether procurement of service providers when it relates to legal services and cartel investigations [was] done in accordance with Section 217(1) of the Constitution;
- Determine the financial positions of the executive management within the Commission and whether individuals received any benefits from service providers;
- Determine the source, flow [and] destination to service providers for payments from the Commission; and,
- Where benefits from service providers were received by persons within the Commission, determine how the transactions were accounted for.

Seize the day, Minister, right now, and tell us the answers!