

REPUBLIC
OF
SOUTH AFRICA



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No. 11841

COMMISSION

by the

State President of the Republic of South Africa

To:

The Honourable Mr Justice Louis Theodor Christiaan Harms

Greetings!

Whereas I deem it expedient to appoint a commission to inquire into and report on the matters mentioned hereinafter and by reason of the great trust I repose in your knowledge and ability, I hereby authorize and appoint you to be the Chairman and sole member of a commission, with the following terms of reference:

To inquire into and to report on possible irregularities or illegalities on the part of any person or organization—

(a) relating to or arising from the activities—

(i) of or on behalf of JALC Holdings SA (Pty) Ltd or any company or institution in which or in respect of which any of the directors or share-holders of the said JALC Holdings SA (Pty) Ltd have a direct or indirect interest; or

(ii) between the said JALC Holdings (Pty) Ltd and any company or institution in which or in respect of which any of the directors or share-holders of the said JALC Holdings SA (Pty) Ltd have a direct or indirect interest; or

(iii) between the said JALC Holdings (Pty) Ltd and any other company, institution or person; or

(iv) between any company or institution and any other similar company or institution in which or in respect of which any of the directors or share-holders of the said JALC Holdings (Pty) Ltd have a direct or indirect interest; and any other company, institution or person; or

(v) between any company or institution in which or in respect of which any of the directors or share-holders of the said JALC Holdings (Pty) Ltd have a direct or indirect interest and any other company, institution or person; or

OPDRAG

van die

Staatspresident van die Republiek van Suid-Afrika

Aan:

Sy Edele Regter Louis Theodor Christian Harms
Saluut!

Aangesien ek dit dienstig ag om 'n kommissie te benoem om ondersoek in te stel na en verslag te doen oor die aangeleenthede hieronder vermeld en groot vertroue het in u kennis en bekwaamheid, magtig ek u en stel ek u aan as Voorsitter en enigste lid van 'n kommissie, met die volgende opdrag:

Om ondersoek in te stel na en verslag te doen oor moontlike onreëlmagtighede of onregmatighede aan die kant van enige persoon of organisasie—

(a) wat verband hou met of voortvloei uit die bedrywighede—

(i) van of namens JALC Holdings SA (Pty) Ltd of enige maatskappy of instelling waarin of ten opsigte waarvan enige van die direkteure of aandeelhouers van genoemde JALC Holdings SA (Pty) Ltd 'n direkte of indirekte belang het; of

(ii) tussen genoemde JALC Holdings SA (Pty) Ltd en enige maatskappy of instelling waarin of ten opsigte waarvan enige van die direkteure of aandeelhouers van genoemde JALC Holdings SA (Pty) Ltd 'n direkte of indirekte belang het; of

(iii) tussen genoemde JALC Holdings SA (Pty) Ltd en enige ander maatskappy, instelling of persoon; of

(iv) tussen enige maatskappy of instelling en enige ander soortgelyke maatskappy of instelling waarin of ten opsigte waarvan enige van die direkteure of aandeelhouers van die genoemde JALC Holdings SA (Pty) Ltd 'n direkte of indirekte belang het; of

(v) tussen enige maatskappy of instelling waarin of ten opsigte waarvan enige van die direkteure of aandeelhouers van die genoemde JALC Holdings SA (Pty) Ltd 'n direkte of indirekte belang het en enige ander maatskappy, instelling of persoon; of

(b) relating to or arising from any activities purported to have been related to any of those companies, institutions or persons,

in particular such activities that amount to fraud, theft, bribery and corruption, or any attempt thereat or any other crime in respect of which dishonesty is an element, or tax evasion, or relating to foreign exchange transactions.

Given under my Hand and the Seal of the Republic of South Africa at Cape Town this Nineteenth day of April, One thousand Nine hundred and Eighty-nine.

P. W. BOTHA,
State President.

By Order of the State President-in-Cabinet:

H. J. COETSEE,
Minister of the Cabinet.

PROCLAMATION

by the

State President of the Republic of South Africa

No. R. 54, 1989

COMMISSION OF INQUIRY INTO CERTAIN POSSIBLE IRREGULARITIES OR ILLEGALITIES

Under the powers vested in me by section 1 of the Commissions Act, 1947 (Act No. 8 of 1947), I hereby declare that the provisions of that Act shall be applicable to the Commission of Inquiry into Certain Possible Irregularities or Illegalities; and

I hereby make regulations with regard to this Commission as contained in the Schedule.

Given under my Hand and the Seal of the Republic of South Africa at Cape Town this Nineteenth day of April, One thousand Nine hundred and Eighty-nine.

P. W. BOTHA,
State President.

By Order of the State President-in-Cabinet:

H. J. COETSEE,
Minister of the Cabinet.

SCHEDULE

REGULATIONS

1. In these regulations, unless the context otherwise indicates—

“Chairman” means the Chairman of the Commission;

“Commission” means the Commission of Inquiry into Certain Possible Irregularities or Illegalities, referred to in this proclamation;

“document” includes any book, pamphlet, record, list, circular, plan, placard, poster, publication, drawing, photograph or picture;

“inquiry” means the inquiry conducted by the Commission;

“officer” means a person in the full-time service of the State who has been appointed or designated to assist the Commission in the execution of its functions;

(b) wat verband hou met voortvloei uit enige bedrywighede wat voorgegee is om verband te hou met enige van daardie maatskappye, instellings of persone,

in besonder sulke bedrywighede wat neerkom op bedrog, diefstal, omkopery en korruksie, of 'n poging daar toe of enige ander misdaad waarvan oneerlikheid 'n element is, of belastingontduiking, of wat verband hou met buitelandse valutatransaksies.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Kaapstad, op hede die Negentiende dag van April Eenduisend Negehonderd Nege-en-tig tig.

P. W. BOTHA,
Staatspresident.

Op las van die Staatspresident-in-Kabinet:

H. J. COETSEE,
Minister van die Kabinet.

PROKLAMASIE

van die

Staatspresident van die Republiek van Suid-Afrika

No. R. 54, 1989

KOMMISSIE VAN ONDERSOEK NA SEKERE MOONTLIKE ONREËLMATIGHEDE OF ONREGMATIGHEDE

Kragtens die bevoegdheid my verleen by artikel 1 van die Kommissiewet, 1947 (Wet No. 8 van 1947), verklaar ek hierby dat die bepalings van daardie Wet van toepassing is op die Kommissie van Onderzoek na Sekere Moontlike Onreëlmatiche of Onregmatighede; en

Vaardig ek regulasies met betrekking tot hierdie Kommissie uit soos in die Bylae vervat.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Kaapstad, op hede die Negentiende dag van April Eenduisend Negehonderd Nege-en-tig tig.

P. W. BOTHA
Staatspresident.

Op las van die Staatspresident-in-Kabinet:

H. J. COETSEE,
Minister van die Kabinet.

BYLAE

REGULASIES

1. In hierdie regulasies, tensy uit die samehang anders blyk, beteken—

“beampte” iemand wat in die voltydse diens van die Staat is en wat aangestel of aangewys is om die Kommissie by die verrigting van sy werkzaamhede behulpsaam te wees;

“dokument” ook 'n boek, pamphlet, aantekening, lys, omsendbrief, plan, plakkaat, aanplakbiljet, publikasie, tekening, foto of prent;

“Kommissie” die in hierdie proklamasie bedoelde Kommissie van Onderzoek na Sekere Moontlike Onreëlmatiche of Onregmatighede; en

“ondersoek” die ondersoek wat deur die Kommissie ingestel word;

"premises" includes any land, building, structure, part of a building or structure, vehicle, conveyance, vessel or aircraft.

2. The proceedings of the Commission shall be recorded in the manner determined by the Chairman.

3. (1) Any person appointed or designated to take down or record the proceedings of the Commission in shorthand or by mechanical means or to transcribe such proceedings which have been so taken down or recorded shall at the outset take an oath or make an affirmation in the following form:

I, A.B., declare under oath/affirm and declare—

(a) that I shall faithfully and to the best of my ability take down/record the proceedings of the Commission of Inquiry into Certain Possible Irregularities or Illegalities in shorthand/by mechanical means as directed by the Chairman of the Commission;

(b) that I shall transcribe fully and to the best of my ability any shorthand notes/mechanical record of the proceedings of the said Commission made by me or by any other person.

(2) No shorthand notes or mechanical record of the proceedings of the Commission shall be transcribed except by order of the Chairman.

4. Every person employed in the execution of the functions of the Commission, including any person referred to in regulation 3 (1), shall aid in preserving secrecy in regard to any matter or information that may come to his knowledge in the performance of his duties in connection with the said functions, except in so far as the publication of such matter or information shall be necessary for the purposes of the report of the Commission, and every such person, except the Chairman or any officer, shall, before performing any duty with the Commission, take and subscribe before the Chairman an oath of fidelity or secrecy in the following form:

I, A. B., declare under oath/affirm and declare that, except in so far as it shall be necessary in the performance of my duties in connection with the functions of the Commission of Inquiry into Certain Possible Irregularities or Illegalities or by order of a competent court, I shall not communicate to any person any matter or information which may come to my knowledge in connection with the inquiry of the said Commission, or suffer or permit any person to have access to any records of the Commission, including any note, record or transcription of the proceedings of the said Commission in my possession or custody or in the possession or custody of the said Commission or any officer.

5. No person who is in terms of regulation 4 required to take and subscribe an oath of fidelity or secrecy shall communicate to any other person any matter or information which may have come to his knowledge in connection with the inquiry of the Commission or suffer or permit any other person to have access to any records of the Commission, except in so far as it shall be necessary in the performance of his duties in connection with the functions of the Commission or by order of a competent court.

"perseel" ook grond of 'n gebou, bouwerk, gedeelte van 'n gebou of bouwerk, voertuig, vervoermiddel, vaartuig of lugvaartuig;

"Voorsitter" die Voorsitter van die Kommissie.

2. Die verrigtinge van die Kommissie word genootleer op die wyse deur die Voorsitter bepaal.

3. (1) Iemand wat aangestel of aangewys is om die verrigtinge van die Kommissie in snelskrif aan te teken of op meganiese wyse op te neem of om sodanige verrigtinge wat aldus aangeteken of opgeneem is, te transkribeer, moet vooraf 'n eed of bevestiging in die volgende vorm aflê:

Ek, A.B., verklaar onder eed/bevestig en verklaar—

(a) dat ek getrou en na my beste vermoë die verrigtinge van die Kommissie van Onderzoek na Sekere Moontlike Onreëlmatighede of Onregmatighede in snelskrif sal aanteken/op meganiese wyse sal opneem soos deur die Voorsitter gelas;

(b) dat ek enige snelskrifaantekeninge/meganiese opname van die verrigtinge van genoemde Kommissie deur my of iemand anders gemaak, volledig en na my beste vermoë sal transkribeer.

(2) Geen snelskrifaantekeninge of meganiese opname van die verrigtinge van die Kommissie word getranskribeer nie behalwe op las van die Voorsitter.

4. Elke persoon wat diens doen by die verrigting van die Kommissie se werksaamhede, met inbegrip van iemand in regulasie 3 (1) bedoel, moet ten aansien van enige aangeleentheid of inligting wat by die vervulling van sy pligte in verband met bedoelde werksaamhede tot sy kennis kom, geheimhouding help bewaar, behalwe vir sover bekendmaking van sodanige aangeleentheid of inligting vir die doeleindes van die Kommissie se verslag nodig is, en elke sodanige persoon, behalwe die Voorsitter of 'n beampete, moet, voordat hy enige diens by die Kommissie verrig, 'n eed van getrouwheid of geheimhouding voor die Voorsitter in die volgende vorm aflê en onderteken:

Ek, A.B., verklaar onder eed/bevestig en verklaar dat, behalwe vir sover dit by die uitvoering van my pligte in verband met die werksaamhede van die Kommissie van Onderzoek na Sekere Moontlike Onreëlmatighede of Onregmatighede of ingevolge 'n bevel van 'n bevoegde hof nodig is, ek geen aangeleentheid of inligting wat in verband met genoemde Kommissie se ondersoek tot my kennis kom, aan enigiemand sal medeeel nie en niemand sal toelaat of veroorloof om toegang tot stukke van die Kommissie te verkry nie, met inbegrip van enige aantekening, opname of transkripsie van die verrigtinge van genoemde Kommissie in my besit of bewaring of in die besit of bewaring van genoemde Kommissie of 'n beampete.

5. Niemand wat ingevolge regulasie 4 'n eed van getrouwheid of geheimhouding moet aflê en onderteken, mag enige aangeleentheid of inligting wat in verband met die Kommissie se ondersoek tot sy kennis gekom het, aan iemand anders medeeel of iemand anders toelaat of veroorloof om toegang te verkry tot stukke van die Kommissie nie, behalwe vir sover dit by die uitvoering van sy pligte in verband met die werksaamhede van die Kommissie of ingevolge 'n bevel van 'n bevoegde hof nodig is.

6. The Chairman or an officer generally or specially authorised thereto by the Chairman shall administer an oath or affirmation to any witness appearing before the Commission.

7. If any person who gave or is giving evidence before the Commission or has been summoned so to give evidence so requests the Commission, the Chairman may direct that no person shall publish in any manner whatsoever the name or address of such person or any information likely to reveal his identity.

8. Any witness appearing before the Commission may only be crossexamined by a person if the Chairman permits such cross-examination by such person because the Chairman deems it necessary in the interest of the functions of the Commission.

9. Any witness appearing before the Commission may, in the discretion of the Chairman and in such manner as may be determined by him, be assisted by an advocate or an attorney.

10. An officer designated thereto by the Chairman may be present at the hearing of evidence at the inquiry and adduce evidence and arguments relating to the inquiry.

11. The Chairman or any officer may, for the purposes of the inquiry, at all reasonable times enter and inspect any premises and demand and seize any document on or kept on such premises.

12. No person shall, without the written permission of the Chairman, disseminate any documents submitted to the Commission by any person in connection with the inquiry or publish the contents or any portion of the contents of such document.

13. No person shall, except in so far as shall be necessary in the execution of the terms of reference of the Commission, publish or furnish to any other person the report of the Commission or a copy or part thereof or information regarding the consideration of evidence by the Commission unless and until the State President has released the report for publication or until the report has been laid on the Table in Parliament.

14. No person may insult, disparage or belittle the Chairman of the Commission or prejudice, influence or anticipate the proceedings or findings of the Commission.

15. Any person who—

(a) wilfully hinders, resists or obstructs the Chairman or any officer in the exercise of any power referred to in regulation 11; or

(b) contravenes the provisions of regulation 5, 7, 12 or 13; or

(c) contravenes the provisions of regulation 14 shall be guilty of an offence and liable on conviction—

(i) in the case of an offence referred to in paragraph (a) or (b), to a fine not exceeding R200 or imprisonment for a period not exceeding six months; and

(ii) in the case of an offence referred to in paragraph (c) to a fine not exceeding R1 000 or imprisonment for a period not exceeding one year.

6. Die Voorsitter of 'n beampete deur die Voorsitter in die algemeen of spesial daar toe gemagtig, moet 'n getuie wat voor die Kommissie verskyn 'n eed ople van hom 'n bevestiging afneem.

7. Indien 'n persoon wat getuienis voor die Kommissie afgelê het of afle of wat opgeroep is om aldus getuienis af te lê, die Kommissie aldus versoek, kan die Voorsitter gelas dat niemand die naam of adres van sodanige persoon of enige inligting wat waarskynlik sy identiteit sal openbaar, op enige wyse hoegenaamd bekend maak nie.

8. 'n Getuie wat voor die Kommissie verskyn, kan slegs deur 'n persoon in kruisverhoor geneem word indien die Voorsitter dié kruisverhoor deur daardie persoon toelaat omdat die Voorsitter dit in die belang van die werkzaamhede van die Kommissie nodig ag.

9. 'n Getuie wat voor die Kommissie verskyn, kan na goeddunke van die Voorsitter en op die wyse wat hy bepaal, deur 'n advokaat of prokureur bygestaan word.

10. 'n Beampete deur die Voorsitter daar toe aangewys, kan by die aanhoor van getuies by die onderzoek aanwesig wees en getuienis en argumente wat op die onderzoek betrekking het, aanvoer.

11. Die Voorsitter of 'n beampete kan vir doeleindes van die onderzoek te alle redelike tye enige perseel betree en besigtig en enige dokument wat op sodanige perseel is of bewaar word, opeis en in beslag neem.

12. Niemand mag, sonder die skriftelike toestemming van die Voorsitter, 'n dokument wat in verband met die onderzoek deur enige persoon aan die Kommissie voorgelê is, versprei of die inhoud of 'n gedeelte van die inhoud van so 'n dokument publiseer nie.

13. Niemand mag, behalwe vir sover dit by die uitvoering van die Kommissie se opdrag nodig is, die verslag van die Kommissie of 'n afskrif of 'n gedeelte daarvan of inligting met betrekking tot die oorweging van getuienis deur die Kommissie publiseer of aan iemand anders verstrek nie, tensy en voordat die Staats-president die verslag vir publikasie beskikbaar gestel het of voordat die verslag in die Parlement ter Tafel gelê is.

14. Niemand mag die Voorsitter van die Kommissie beleidig, neerhaal of verkleineer of die verrigtinge of die bevindings van die Kommissie benadeel, beïnvloed of vooruitloop nie.

15. Iemand wat—

(a) die Voorsitter of 'n beampete by die uitoefening van 'n bevoegdheid in regulasie 11 bedoel, opsetlik hinder, teengaan of dwarsboom; of

(b) die bepalings van regulasie 5, 7, 12 of 13 oortree; of

(c) die bepalings van regulasie 14 oortree, is aan 'n misdryf skuldig en is by skuldigbevinding strafbaar—

(i) in die geval van 'n misdryf in paragraaf (a) of (b) bedoel, met 'n boete van hoogstens R200 of gevangenisstraf vir 'n tydperk van hoogstens ses maande; en

(ii) in die geval van 'n misdryf in paragraaf (c) bedoel, met 'n boete van hoogstens R1 000 of gevangenisstraf vir 'n tydperk van hoogstens een jaar.

GOVERNMENT NOTICE**DEPARTMENT OF JUSTICE****No. R. 815****19 April 1989****APPOINTMENT OF COMMISSION OF INQUIRY
INTO CERTAIN POSSIBLE IRREGULARITIES
OR ILLEGALITIES**

It is hereby notified for general information that the State President has been pleased to appoint the Honourable Mr Justice L. T. C. Harms as Chairman and sole member of a Commission of Inquiry into Certain Possible Irregularities or Illegalities.

The Commission's terms of reference are as follows:

To inquire into and to report on possible irregularities or illegalities on the part of any person or organization—

(a) relating to or arising from the activities—

(i) of or on behalf of JALC Holdings SA (Pty) Ltd or any company or institution in which or in respect of which any of the directors or shareholders of the said JALC Holdings SA (Pty) Ltd have a direct or indirect interest; or

(ii) between the said JALC Holdings SA (Pty) Ltd and any company or institution in which or in respect of which any of the directors or shareholders of the said JALC Holdings SA (Pty) Ltd have a direct or indirect interest; or

(iii) between the said JALC Holdings SA (Pty) Ltd and any other company, institution or person; or

(iv) between any company or institution and any other similar company or institution in which or in respect of which any of the directors or share-holders of the said JALC Holdings SA (Pty) Ltd have a direct or indirect interest; or

(v) between any company or institution in which or in respect of which any of the directors or share-holders of the said JALC Holdings SA (Pty) Ltd have a direct or indirect interest and any other company, institution or person; or

(b) relating to or arising from any activities purported to have been related to any of those companies, institutions or persons,

in particular such activities that amount to fraud, theft, bribery and corruption, or any attempt thereat or any other crime in respect of which dishonesty is an element, or tax evasion, or relating to foreign exchange transactions.

Anyone wanting to submit evidence to the Commission by way of memorandum or orally can write to the Secretary, Commission of Inquiry into Certain Possible Irregularities or Illegalities, Private Bag X9120, Cape Town, 8000.

GOEWERMENTSKENNISGEWING**DEPARTEMENT VAN JUSTISIE****No. R. 815****19 April 1989****AANSTELLING VAN KOMMISSIE VAN ONDERSOEK NA MOONTLIKE ONREËLMATIGHEDEN OF ONREGMATIGHEDEN**

Hierby word vir algemene inligting bekendgemaak dat dit die Staatspresident behaag het om Sy Edele Regter L. T. C. Harms as Voorsitter en enigste lid van 'n Kommissie van Ondersoek na Sekere Moontlike Onreëlmatiche of Onregmatighede aan te stel.

Die Kommissie se opdrag lui soos volg:

Om ondersoek in te stel na en verslag te doen oor moontlike onreëlmatiche of onregmatighede aan die kant van enige persoon of organisasie—

(a) wat verband hou met of voortvloeи uit die bedrywighede—

(i) van of namens JALC Holdings SA (Pty) Ltd of enige maatskappy of instelling waarin of ten opsigte waarvan enige van die direkteure of aandeelhouers van genoemde JALC Holdings SA (Pty) Ltd 'n direkte of indirekte belang het; of

(ii) tussen genoemde JALC Holdings SA (Pty) Ltd en enige maatskappy of instelling waarin of ten opsigte waarvan enige van die direkteure of aandeelhouers van genoemde JALC Holdings SA (Pty) Ltd 'n direkte of indirekte belang het; of

(iii) tussen genoemde JALC Holdings SA (Pty) Ltd en enige ander maatskappy, instelling of persoon; of

(iv) tussen enige maatskappy of instelling en enige ander soortgelyke maatskappy of instelling waarin of ten opsigte waarvan enige van die direkteure of aandeelhouers van die genoemde JALC Holdings SA (Pty) Ltd 'n direkte of indirekte belang het; of

(v) tussen enige maatskappy of instelling waarin of ten opsigte waarvan enige van die direkteure of aandeelhouers van die genoemde JALC Holdings SA (Pty) Ltd 'n direkte of indirekte belang het en enige ander maatskappy, instelling of persoon; of

(b) wat verband hou met of voortvloeи uit enige bedrywighede wat voorgegee is om verband te hou met enige van daardie maatskappye, instellings of persone,

in besonder sulke bedrywighede wat neerkom op bedrog, diefstal, omkopery en korupsie, of 'n poging daartoe of enige ander misdaad waarvan oneerlikheid 'n element is, of belastingontduiking, of wat verband hou met buitelandse valutatransaksies.

Enigeen wat getuienis by wyse van memorandum of mondelings aan die Kommissie wil voorlê, kan skryf aan Die Sekretaris, Kommissie van Ondersoek na Sekere Moontlike Onreëlmatiche of Onregmatighede, Privaatsak X9120, Kaapstad, 8000.

GOVERNMENT GAZETTE INDEX: REPUBLIC OF SOUTH AFRICA

The **Government Gazette Index: Republic of South Africa** provides quick and easy access to notices in the *Government Gazettes*. By means of direct subject indexing the retrieval of information on any subject is facilitated. Subjects are arranged alphabetically and subdivisions within each subject range from the general to the specific. Thus the user may either be directed to an individual notice or obtain an overview of existing legislation on a particular subject.

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GOVERNMENT GAZETTE INDEX: REPUBLIC OF SOUTH AFRICA

Die **Government Gazette Index: Republic of South Africa** sorg vir die vinnige en maklike opsporing van kennisgewings in die *Staatskoerante*. Die ontsluiting van inligting oor enige onderwerp word vergemaklik deur middel van direkte onderwerpindeksering. Onderwerpe is alfabeties gerangskik en onderverdelings van elke onderwerp wissel van algemeen tot spesifiek. Die gebruiker word dus óf na 'n individuele kennisgewing verwys óf hy kan 'n oorsig van bestaande wetgewing oor 'n spesifieke onderwerp bekom.

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Use it.



Don't abuse

it.

water is for everybody

Werk mooi daarmee.



Ons leef

daarvan.

water is kosbaar

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