

'Suspicious' SARS deposits not probed

By [Natasha Marrian](#)

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As South African Revenue Service (SARS) commissioner Tom Moyane braces for an inquiry into the administration of the tax agency, further damaging revelations emerged on the investigation into its second-in-charge, Jonas Makwakwa.



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Hogan Lovells has placed on record that it did not directly investigate the R1.3m in suspicious deposits into Makwakwa's account and that of his partner, Kelly-Ann Elskie, who is also a SARS employee.

Despite the company's "limited scope" for the investigation and its failure to directly probe the claims for which Makwakwa was suspended in 2016, he returned to work on 1 November.

SARS said he had been cleared of all charges after facing an internal disciplinary process.

The tax agency is under increasing pressure, with a R50bn deficit in revenue collection, which the Treasury said could be attributed to the "economic cycle", weakening tax morality and also "challenges facing tax administration". Makwakwa is SARS chief director for business and individual taxes, effectively its second in command, and as such should be above reproach.

In a statement on its website Hogan Lovells, which conducted the "independent investigation" announced by Moyane late in 2016, said its scope was "limited" to whether there was misconduct by the pair.

"It [the investigation] did not seek to directly investigate the financial transactions identified by the FIC [Financial Intelligence Centre].

"We understand that all criminal-related allegations arising from the FIC report were referred to the relevant authorities for investigation," said Hogan Lovells in the statement.

This implies that Makwaka has yet to answer for the suspicious transactions.

It also contradicts information from sources inside SARS that Hogan Lovells had enlisted PwC to assist with the probe into the transactions.

Hogan Lovells also revealed in its statement that it recommended disciplinary action against Makwaka for "nondisclosure of external interests" and also for "breaching his suspension conditions".

This is understood to be linked to Makwaka's interference in a taxpayer matter while on suspension.

"A hearing was convened and chaired by an independent senior counsel, advocate Terry Motau SC. The findings ... acquitted Makwaka of all charges," Hogan Lovells said.

The law firm did not respond to questions on Thursday.

SARS spokesman Sandile Memela said the tax agency did not want to engage on the matter through the media.

"As you are aware, [Parliament's] standing committee on finance has written to SARS with a specific request. SARS will engage [the standing committee on finance] on the matter soon. SARS cannot give comment on this matter but will provide more details when we present to parliamentary structures," Memela said.

Last week the finance committee urged SARS to release the Hogan Lovells report.

"Given the role SARS plays, it not only has to be, but be seen to be, above reproach, and perceptions of irregularities by its senior officials have to be effectively addressed," it said.

Committee chairman Yunus Carrim said on Thursday that if it was true that Hogan Lovells did not investigate the matter for which Makwaka was suspended, the committee would have to consider this when SARS appeared before it on 28 November.

He said the committee had written to SARS and the finance minister for a copy of the report and awaited their response.

DA MP Alf Lees, who is also on the committee, questioned Hogan Lovells, saying if it did not investigate the suspicious transactions directly, "what exactly did it investigate?". He also expressed concern that SARS and Moyane had not been "forthcoming" to the committee in the past.

Meanwhile, the Presidency said on Thursday that the details of the broader inquiry into SARS would be dealt with by President Jacob Zuma and Finance Minister Malusi Gigaba when the latter returned from an official trip abroad. Gigaba announced the inquiry on Monday, saying Zuma had agreed to it.

Source: Business Day

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