



**MINISTRY: TRADE AND INDUSTRY
REPUBLIC OF SOUTH AFRICA**

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Per telefax No. (011) 263 9005

Dear Sirs

**REPORT ON INVESTIGATION INTO THE AFFAIRS OF
CORPCAPITAL**

1. My Department has now had the opportunity to consider your report and, particularly, with a view to the court applications launched by Corpcapital and Mr. Frangos on issues pertaining to the report, to obtain legal opinion from senior and junior counsel.
2. On the one hand, there is, as you by now know, the application launched by Corpcapital in which an order is sought directing me to direct the forwarding of the report to its registered office as envisaged in section 261(2) of the Companies Act, 1973.
3. On the other hand, there is, as you by now also know, the application launched by Mr. Frangos in which an order is sought in effect directing me to re-open the investigation so as to afford him an opportunity to obtain, and respond to, reports or evidence of certain experts appointed by Corpcapital that had not been made available to him for comments in the course of the investigation and that I be interdicted from forwarding the report until such time as the investigation has, after such re-opening, been finalized.
4. I am advised that, bearing in mind, *inter alia*, the allegations contained in these two applications, there is, amongst others, one difficulty that is being experienced with the Report which may, should this difficulty be resolved, possibly give rise to a satisfactory solution to the whole matter.

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5. This difficulty is the factual dispute between the parties, including the Inspectors, as to whether Mr. Frangos had indeed been given an undertaking in relation to the making available of all expert reports and evidence to both parties so as to afford them an opportunity to comment thereon, and the legal dispute as to, whether or not such an undertaking had been given, whether the failure to make such reports or evidence available constitutes procedural unfairness.

5.1 I do not wish, and I am advised not, to get involved at this stage in these disputes.

5.2 It would, as far as it could have been ascertained from the report, appear -

(a) that, in addition to lists of possible adverse findings, at least the evidence of Abrahams, Collet and Adam appointed by Mr. Frangos and the evidence of Coppin and Wilmot appointed by Corpcapital, including the responses of Hamburger, Mattison and Joselowitz on the evidence of Abrahams, were made available, respectively, to Corpcapital and Mr. Frangos for comments;

(b) that reports or evidence of Messrs Everingham, Armitage, Meyersfeld, Knight and Cohen who all appear to have been appointed by Corpcapital or the general nature thereof was not made available to Mr. Frangos for comments or, if possible, rebuttal.

5.2 In view thereof that the Inspectors have been appointed to investigate the affairs of Corpcapital, obviously in the public interest, on the issues specified in their terms of reference, the question that arises from my perspective is whether a full and proper investigation had been conducted if the expert reports or evidence in question had not been made available to Mr. Frangos for comments or, if he so wished, evidence in rebuttal.

6. It will accordingly be appreciated if I can have the benefit of your views on the question -

(a) whether it would have caused any harm to any person had the reports or evidence of the experts referred to above been made available to Mr. Frangos for comments;

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- (b) whether or not in your view the Inspectors could perhaps have come to a different conclusion or, bearing in mind that you were unable to make any findings on certain issues (see., eg., Report, chapter VII, section 4, p. 31, para 29), to a more definite conclusion had the relevant expert reports or evidence been made available to Mr. Frangos and had he in some way or another responded thereto and, should you be of the view that it would not have made any difference, why you are of that view; and
 - (c) should you be of the view that it could have made a difference to your conclusions, whether the investigation should be re-opened or referred back to the Inspectors to hear further evidence in this regard and to reconsider their report in view of such further evidence.
7. If this route can be followed it seems to me that at least one of the reasons for the pending litigation may be removed.

Yours faithfully


MANDISI MPAHLWA, MP
MINISTER: TRADE AND INDUSTRY
DATE: 24 MARCH 2005