



Pauli van Wyk &lt;pauli@dailymaverick.co.za&gt;

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## Scorpio query

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**Modise, Lavery** <lavery.modise@hoganlovells.com>

Wed, May 2, 2018 at 4:55 PM

To: Pauli van Wyk &lt;pauli@dailymaverick.co.za&gt;, Mildred Thabane &lt;Mildred.Thabane@hkstrategies.co.za&gt;

Dear Pauli

I am not at liberty to discuss the merits of the PwC report or our final report to SARS. These are still privileged documents and are currently with the Chair of the Standing Committee on Finance until discussion on 23 May 2018. After this hearing, we hope we will be in a position to clarify any content of the report as it will be in the public domain.

If I am correct in assuming that you have the PwC report and ours, I can only request you to consider these reports carefully and in the full context of the public review which will now take place on 23 May which we hope to contribute to, and to treat their content fairly in your reporting.

Our recommendations to SARS were set out in our report to SARS, of which the PWC source of funds report was an annexure. It appears that your questions focus on only one aspect of the matter and we cannot answer them in isolation. We have repeatedly stated that we as attorneys and SARS as Mr Makwakwa's employer could not investigate criminal matters. These had to be investigated by the Hawks. This recommendation is clearly stated in our report. We encouraged this process to be undertaken.

I must disagree with your suggestion in your last paragraph. An employer cannot instruct or compel its employee to give information or documents outside the scope of the employer/employee relationship. Moreover, all employees have the right not to incriminate themselves, particularly where their conduct could lay the basis of criminal prosecution. Such is a basic tenet of our Constitution and a fundamental human right. That is where the relevant statutory bodies with the necessary authority or power to do so are requested to step in, and in this case the Hawks and the SAPS. As far as we know, the investigation is still ongoing and therefore Mr Makwakwa cannot be exonerated as you previously stated.

I trust that this assists you in your investigations.

**Lavery Modise**

Chairman

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**From:** Pauli van Wyk [<mailto:pauli@dailymaverick.co.za>]

**Sent:** 02 May 2018 10:36 AM

**To:** Mildred Thabane; Modise, Lavery

**Subject:** Scorpio query

[Quoted text hidden]

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