



OUTA

ORGANISATION UNDOING TAX ABUSE

ACE MAGASHULE

OUTA'S SUBMISSION TO THE
JUDICIAL COMMISSION OF
INQUIRY INTO STATE
CAPTURE




TABLE OF CONTENTS

TABLE OF CONTENTS	0
INTRODUCTION	1
PERSONS INVOLVED AND/OR INVITED	2
THE DEFINITION OF STATE CAPTURE	3
TIMELINE OF EVENTS	4
12 NOVEMBER 2012	4
4 MARCH 2013.....	5
6 MARCH 2013.....	6
13 MARCH 2013	6
20 MARCH 2013	7
23 JULY 2014	8
10 NOVEMBER 2014	8
25 NOVEMBER 2014	9
TSHEPISO MAGASHULE’S RELATIONSHIP WITH THE GUPTAS	10
CONCLUSION	11

INTRODUCTION

1. OUTA would like to bring to your attention information found in the #Guptaleaks. It pertains to the Premier of the Free State, “Ace” Magashule, and the official letterhead of the Premier that was used for a number of suspicious letters written and dispatched under the Premier’s signature.
2. Between November 2012 and November 2014, several letters of invitation were sent on the letterhead of the Premier of the Free State to high profile Indian politicians. They were invited to visit the Free State Province on official basis. These invitations were in most cases shared with the Premier’s son, Mr Tshepiso Magashule (“Thsepiso”), Mr Ashu Chawla (“Chawla”) of Sahara and Mr Tony Gupta (“Gupta”).
3. The letters were all drafted by Mr Ashok Narayan (“Narayan”) who is a known Gupta ally. Narayan was involved in several Gupta linked companies like Homix, Linkway Trading, Sahara Systems. Moreover, the letters indicate that Narayan was an advisor to the Free State Premier.

PERSONS INVOLVED AND/OR INVITED

Individual	Position	Description Used
Mr Ace Magashule	Premier of the Free State Province at the time.	"Ace"
Mrs Janet Kay "Kay"	Chief of Staff in the Premier's Office.	"Kay"
Mr Ashok Narayan	Narayan was/is a director on several Gupta companies. He is known by farmers in the Vrede area for his involvement with the Vrede Dairy Farm and Estina. In his mails he also indicated that he is an adviser to the Free State Premier.	"Narayan"
Mr Ajay Gupta	Eldest of the Gupta brothers.	"Ajay"
Mr Rajesh "Tony" Gupta	Youngest of the Gupta brothers	"Tony"
Mr Ashu Chawla	Manager at Sahara Computers.	"Chawla"
Mr Vijay Bahuguna	Chief Minister of Uttarakhand in India.	"Bahuguna"
Ms Moipone Ngomane	Deputy Director International Relations in the Premier's Office	

Mr Naseemuddin Siddiqui	National General Secretary of the Buhujan Samaj Party, the leading opposition party in Uttar Pradesh.	("Siddiqui")
Mr Bhupinder Singh Hooda	Chief Minister of Haryana in India.	"Hooda"
Mr Devendra Fadnavis	Chief Minister of Maharashtra.	

THE DEFINITION OF STATE CAPTURE

4. OUTA construes the definition of state capture as follows:

"...a situation where powerful individuals, institutions, companies or groups within or outside a country use corruption to shape a nation's policies, legal environment and economy to benefit their own private interest".¹

(Own emphasis added).

¹ Chene M, "State Capture: An Overview", 11 March 2014.

TIMELINE OF EVENTS

12 NOVEMBER 2012

5. Janet Kay (“Kay”), the Chief of Staff in the Premier’s Office, sends an email with a letter as an attachment to Vijay Bahuguna (“Bahuguna”), Chief Minister of Uttarakhand in India, inviting him for a visit to the Free State Province. The letter is on the letterhead of the Premier of the Free State, Mr Ace Magashule (“Magashule”), purportedly signed by the Premier and also marked for delivery to Mr Virenda Gupta, the Indian High Commissioner in South Africa.
6. The letter states that the invitation is to strengthen ties between the Free State Province and the State of Uttarakhand, the letter emphasises the following:

“With a view to enhancing and strengthening these ties, I would like to cordially invite you and your delegates to visit us in the Free State Province, which occupies a strategic location in the geography of our country, to explore potential areas of mutual co-operation between our countries with specific emphasis on bi-lateral trade opportunities between the Province of the Free State and the State of Uttarakhand.”
7. According to last paragraph of this letter, the visit was planned for 20 – 24 December 2012. The email with the metadata is attached hereto and marked “**ANNEXURE X1**” and “**ANNEXURE X2**”.

8. On the same day Mr Ashok Narayan (“Narayan”) sends an email to one Urvashi at the email address “urvashi@exluzen.com”, informing him that he is writing from the Office of the Premier of the Free State, South Africa. He informs Urvashi of an invitation that was sent to the Chief Minister and attaches the same letter that Kay dispatched to Bahuguna, to his email.
9. This email is also sent to Ashu Chawla (“Chawla”), the manager at Sahara Computers.
10. Narayan signed his email with the following designation: “Member: Advisory Council, Office of the Premier, Free State, South Africa.” This is attached hereto and marked “**ANNEXURE X3**”.

4 MARCH 2013

11. Kay sends an email to Naseemuddin Siddiqui (“Siddiqui”) with a letter of invitation to visit the Free State Province attached. This letter is written on the official letterhead of the Premier of the Free State Province and according to the letter, Siddiqui is the National General Secretary of the Buhujan Samaj Party, the leading opposition party in Uttar Pradesh. Siddiqui has however since been expelled from the Party.
12. The letter is hereto attached and marked “**ANNEXURE X4**”.
13. This letter is also addressed to Mr Virendra Gupta, the Indian High Commissioner in South Africa.

6 MARCH 2013

14. On 6 March 2013, Narayan forwards the email of Kay together with the letter of invitation mentioned in paragraph 11 *supra* to Mr Tony Gupta, with the message “*Sir ji. FYI.*”
15. The email is hereto attached and marked as “**ANNEXURE X5**”.

13 MARCH 2013

16. Narayan sends a mail to Chawla with a draft letter of invitation attached to the mail for Chief Minister of Haryana Bhupinder Singh Hooda (“Hooda”). He requests Chawla to get Ajay Gupta’s (“Ajay”) approval for this invitation. He further states that as soon as the approval is granted, that the draft letter will be done on the formal letterhead of the Premier.
17. When Chawla receives the mail, he forwards the mail to Ajay.
18. The mail is attached hereto as “**ANNEXURE X6**” and the draft letter as “**ANNEXURE X7**”.

20 MARCH 2013

19. Kay sends an email “**ANNEXURE X8**” with a letter of invitation attached to the email “**ANNEXURE X9**” to Hooda, inviting him for a visit to the Free State Province.
20. This letter is the same message that was drafted by Narayan and sent to Ajay for approval but now on the official letterhead of the Premier.
21. This letter, like the letter sent to Bahuguna on 26 November 2012, states *inter alia*, that the invitation is to strengthen ties between the Free State Province and the State of Haryana with the following an extract from this letter:

“With a view to enhancing and strengthening these ties, I would like to cordially invite you to visit us in the Free State Province, which occupies a strategic location in the geography of our country, to explore potential areas of mutual co-operation between our countries with specific emphasis on bi-lateral trade opportunities between the Province of the Free State and the State of Haryana.”

22. The letter further suggests that the visit should take place around the last week of April or the first week in May 2013. This time period is similar to the dates when the Gupta wedding at Sun City took place.
23. This letter is on the letterhead of the Premier of the Free State, purportedly signed by the Premier and marked for delivery also to Mr Virenda Gupta, the Indian High Commissioner in South Africa.

23 JULY 2014

24. Kay sends an email to Ms Moipone Ngomane (“Ngomane”), the Deputy Director of International Relations in the Premier’s Office, and enquires, on behalf of the Premier’s son Tshepiso, about the Premier’s itinerary whilst in India.
25. When Kay receives an answer from Ngomane, she forwards it to Tshepiso. Tshepiso then forwards the answer on 24 July 2014, to Mr Tony Gupta.
26. The email is attached hereto and marked “**ANNEXURE X10**”.

10 NOVEMBER 2014

27. Narayan sends an email to Tshepiso requesting from him a letter printed on the letterhead of the Office of the Premier. Narayan further asks Tshepiso to ask the Premier’s office to fax and email the letter to the numbers provided in the letter once the Premier has signed the letter. He also begs Tshepo to send a copy to him.
28. The email is attached hereto and marked “**ANNEXURE X11**”.

25 NOVEMBER 2014

29. Tshepiso forwards the email of Narayan dated 10 November 2014, to Kay.² Kay replies to Tshepiso as follows:

“Hi T,

Please see the attached. I have the Chief Minister’s e-mail address and can send it on directly – should you wish me to. It may look better coming from an official premier e-mail address.

Let me know.

Kind regards

J”

30. Kay then sends an email to the Mr Devendra Fadnavis the Chief Minister of Maharashtra, and attaches the letter, dated the 21st of November 2014.
31. It is attached hereto and marked **“ANNEXURE X12”**.
32. The core of the letter is word for word the same as the previous invitation letters, except for the name of the State.

“With a view to enhancing and strengthening these ties, I would like to cordially invite you to visit us in the Free State Province, which occupies a strategic location in the

² ANNEXURE X11

geography of our country, to explore potential areas of mutual co-operation between our countries with specific emphasis on bi-lateral trade opportunities between the Province of the Free State and the State of Maharashtra.”

33. The proposed visit was scheduled for the third or fourth week of January 2015.

TSHEPISO MAGASHULE'S RELATIONSHIP WITH THE GUPTAS

34. The #Guptaleaks show evidence that Tshepiso had an established relationship with the Guptas. As early as 2011, a list of names for flights to be booked was sent. This list was sent from Chawla to an employee at Flywell. The list mainly consists of Gupta family members but also includes Duduzane Zuma and Tshepiso Gift Magashule. The email is attached hereto and marked “**ANNEXURE X13**”.
35. A travel itinerary dated 10 October 2011, reveals that Tshepiso was to travel to Dubai, New York, Venice and India with Duduzane Zuma and other members of the Gupta family. The email is attached hereto and marked “**ANNEXURE X14**”.
36. On 13 February 2012, a list of passengers on Gupta plain ZS-POT to Bloemfontein was sent. Once again Tshepiso is included in this flight alongside several Gupta associates. This email was sent from Ashy Chawla to various

individuals including Nico Vermaak, Hercuels Jordaan and Charlene Morison. The email is attached hereto and marked "**ANNEXURE X15**".

37. In 2014, Tshepiso again travels to Dubai. This trip was again arranged by the Gupta family. However, this time his sibling Thato Mothwe Magashule would join him.
38. The evidence is attached hereto and marked "**ANNEXURE X16**".
39. An email also shows that a R 80 000 payment was made to Tshepiso. The email is sent from Ankur Sharma of Tegeta to Ashu Chwala. The email is hereto attached and marked "**ANNEXURE X17**".

CONCLUSION

40. It is not clear whether the invitations were sent by the Premier of the Free State or if his office was "captured" by his son and Narayan to facilitate visits of Indian politicians to South Africa.
41. What is clear is that with several of the invitations, the Gupta brothers were either informed or their approval was sought to send out the invitations.
42. Furthermore, there is no clear indication whether protocol was followed with the invitations or if the Premier's office and official letterhead was abused by the Gupta's to create a fictitious nexus to illustrate to the Indian Politicians that they were connected to South African politicians.

43. It is evident that the Chief of Staff of the Premier, Kay, was willing to assist the Premier's son and the Gupta's. Kay even suggested that an invite straight from the Premier's office would look better than an invite from any other address.
44. If Narayan was indeed an advisor to the Premier, it should be established when and by whom he was appointed. Moreover, it should be established whether the Premier was aware of Narayan's close relationship with the Gupta family or not and to what extent he was involved in the Gupta companies.