



ZIMBABWE ANTI-CORRUPTION COMMISSION

"Refuse, Resist and Report Corruption"

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Investigations and asset recovery prioritised as citizens increasingly engage ZACC

By Commissioner John Makamure

The Zimbabwe Anti-Corruption Commission is strengthening its investigations and asset recovery units in order to adequately respond to increased reports filed by Zimbabwean citizens who are positively responding to the call to actively participate in the anti-corruption drive.

The Commission has so far this year received more than 60 reports of suspected corruption. The reports were received through walk-in clients, by telephone, through letters, email and use of social media platforms. The total number of cases under investigations by ZACC is now more than 780. Of the total number, 74 are high profile cases. The Commission has so far managed to complete nine dockets and submitted them to the National Prosecution Authority for prosecution. ZACC has stepped up the process of recruiting more investigators and legal experts in order to speed up investigations and submit more high quality dockets to the prosecuting authority.

The Commission has of late been accused of avoiding high profile cases and concentrating on low profile ones. I would like to clarify that we do not only look at the profile of a case in terms of the personalities involved, but also the quantum of prejudice. A few examples will illustrate that the Commission has been handling quite a number of high profile cases based on personalities and amounts involved.

Peter Muchakazi the Director responsible for Procurement in the Ministry of Defence and War Veterans Affairs was arrested on fraud allegations as defined under the Criminal Codification and Reform Act amounting to US\$ 306 135 purporting that the money was used for cleaning services. The accused person was granted \$5000 bail and is expected to appear in court on 13 February 2020. He is jointly charged with Kunofiwa Mervin Madondo, a chief accountant in the same ministry and Luzon Ngara, a base commander.

Simbarashe Zvineyi, a former Accountant in the Ministry of Defence and War Veterans was arrested on fraud allegations under the same Act. The amount involved is US\$20 million purportedly used for special operations. Five vehicles suspected to have been acquired through the tainted money have been recovered. The Commission is pursuing other properties acquired from the corruption proceeds. The subsidised maize meal corruption saga that ZACC is currently investigating runs into millions of US dollars. These are not small monies, thereby justifying why we treat them as high profile cases.

Then we have the well-known \$95 million Mupfumira NSSA case, former ZINARA chief executive officer Frank Chitukutuku case, former Environment and Tourism Minister Walter

Mzembi case, just to name a few. Surely, ZACC cannot be accused of failing to tackle high profile cases. As I have already pointed out in this article, we have 73 high profile cases before the courts and under investigation. Admittedly, the process of investigations is taking too long in some of the cases. This is largely explained by the complex nature of the cases and the need to be thorough in order to obtain sufficient evidence that can lead to a conviction.

On the issue of asset recovery of the proceeds of crime, the criminal justice system has discovered that it is not enough to incarcerate criminals who have committed acts of corruption, financial and economic crime or the predicate offences of money laundering. What has assumed greater importance is for law enforcement agents and competent authorities to be able to identify, trace, freeze and confiscate proceeds or instrumentalities of crime.

The Commission has been on record highlighting that asset recovery will be vigorously pursued during its tenure. There are two key result areas in the ZACC Strategic Plan (2020 – 2024). They are investigations for prosecution and prevention of corruption. Investigations for prosecution, which include asset recovery, has been allocated 60 % of the resources. This demonstrates the importance we attach to the recovery of ill-gotten wealth. We also share the same sentiments as many Zimbabweans that once recovered, the monies should be directed towards productive expenditure such as infrastructure development and social services delivery.

Section 27A (4) of the Money Laundering and Proceeds of Crime Act [9:24] as amended, provides that the Asset Forfeiture Unit in the NPA shall work in co-operation with the Zimbabwe Anti-Corruption Commission, Zimbabwe Revenue Authority, Financial Intelligence Unit and other investigative agencies for the purposes of facilitating identification, tracing, freezing and confiscation of property. This provision gives mandate to facilitate identification, tracing, freezing and confiscation of property believed to have been acquired through proceeds of crime.

Upon assuming office, the current Commission resolved to re-structure the Asset Recovery Unit after three bench marking visits were made to the Nigeria Economic and Financial Crimes Commission, Botswana Directorate on Corruption and Economic Crimes and Tanzania anti-corruption agency. The Unit now comprises four lawyers and several investigators. The Unit will be further strengthened this year through the recruitment of more staff and implementation of training programmes.

The Asset Recovery Unit conducts asset tracing investigations, apply for warrants of seizures and freezing orders and then draft asset forfeiture applications for referral to the National Prosecuting Authority. The Unit is currently seized with 14 cases under asset tracing investigations. These run into millions of US dollars. Two asset forfeiture applications were completed in the last quarter of 2019 and referred to the National Prosecuting Authority and then filed in the High Court. This is a very good start given that the Unit has just been formed. ZACC is entering into partnership with various local and international agencies involved in asset tracing and recovery. Such agreements will no doubt strengthen the work of the Commission in that area.

Zimbabwe is not alone in the quest to trace and recover stolen assets. It has become a global phenomenon strongly backed by international institutions such as the United Nations and the World Bank. The increased global attention on asset tracing and recovery has been motivated by the devastating effects that these illicit dealings have had on the economies of both developed and developing countries.

It is estimated that between US\$1 trillion and US\$1.6 trillion is the cross-border flow of proceeds from corrupt activities. The amount of money stolen from developing and transition countries is about US\$20 billion to US\$40 billion per year, a figure equivalent to 20 to 40 percent of flows of official development assistance. Analysts are unanimous that the damage resulting from such thefts includes the degradation and distrust of public institutions, the weakening of the private investment climate, and the corruption of social service delivery mechanisms for basic health and education programs. Once stolen funds have been transferred abroad, they are extremely difficult to recover.

Developing countries have been facing serious obstacles because of the lack of non-conviction based asset forfeiture laws, as well as limited legal, investigative, and judicial capacity and inadequate financial resources. Jurisdictions where stolen assets are hidden—often developed countries—may not be able to respond to requests for legal assistance because necessary laws, including non-conviction based asset forfeiture legislation, are not in place. In situations in which death, fugitive status, or immunity of officials impedes a criminal investigation or prosecution, the process of asset recovery can be even more difficult.

This explains why ZACC is forging ahead with the identification of reputable international partners that will assist the country trace and recover these assets. We also continue to push hard for the enabling legal framework to facilitate tracing and forfeiture.

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