

18 April 2017

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RE: RELATIONSHIP BETWEEN ‘THE PATERNOSTER GROUP’, CASAC AND SAVE SOUTH AFRICA

Dear Mr Pityana,

We hope you are well. A meeting was held in Cape Town on 17 April 2017 between perhaps a dozen organisations to plan future mobilisation for a just, equal and corruption-free South Africa. In addition to the other business of the meeting it was unanimously agreed that this letter should be sent to you as soon as possible.

Our intention here is to raise a concern in regard to protecting the credibility of SaveSA and CASAC. The concerns raised have the potential to impact a wide range of associated organisations and indeed the broader effort to address corruption and re-establish accountable governance under the Constitution. We consider the situation to be very serious and requiring decisive attention.

We share with all the recipients of this letter a profound anguish about recent developments in the South African political system and a deep commitment to realising a just and equal South Africa under the rule of law. We write with appreciation for the mission, bravery and work of both CASAC and SaveSA, including the important efforts of Lawson Naidoo and Richard Calland, two individuals who are mentioned extensively below. We also wish to thank CASAC and SaveSA for supporting recent organising efforts in Cape Town.

We understand that CASAC and SaveSA are not the same. Where pertinent this letter differentiates between the two. For example, Naidoo is an employee of CASAC whereas Calland is not (although he serves on its Executive Council). But there is overlap in leadership and staff. You are the Chairperson of CASAC and also the only person profiled on the SaveSA website. Naidoo speaks publicly and undertakes organisational work for both organisations. SaveSA has been utilising CASAC’s bank account for the purposes of receiving donations.

THE PATERNOSTER GROUP

Our disquiet relates to an entity called ‘The Paternoster Group’, apparently a business entity. According to its website¹ (www.thepaternostergroup.com) “the Paternoster Group offers discrete, independent specialist political risk analysis, communications and relationship management advisory services”. The website provides further details of the services offered which include “arranging key executive contacts” and “regular confidential briefing sessions”.

The website states that the business has three “partners”: Richard Calland, Lawson Naidoo and Ian Farmer. Calland is an Associate Professor at UCT and Director of the Democratic Rights and Governance Unit (DGRU). As noted, Calland is a member of the CASAC Executive Committee. Lawson Naidoo is the Executive Secretary of CASAC, in which capacity he serves as a member of the CASAC Executive Committee. The Paternoster website describes Naidoo as “the Executive Secretary of the Council for the Advancement of the South African Constitution (CASAC), one of South Africa’s foremost independent civil society organisations.” The third

¹ Viewed 17 and 18 April 2017.

partner, Ian Farmer, is the former CEO of Lonmin Plc. He was the CEO of Lonmin Plc at the time of the Marikana Massacre.

Two contact numbers are provided for the Paternoster Group, one in South Africa and one in the UK.

THE PATERNOSTER GROUP'S RELATIONSHIPS AND/OR CLIENTS

The website states that "Paternoster partners have enjoyed relationships" with the following six companies.

- EY (Ernst & Young);
- Walmart / Massmart;
- Citi (Citi Bank);
- Bank of America;
- Merrill Lynch; and
- SFA Oxford.

The logos of these companies scroll prominently across one of the Paternoster website's pages.

Previously the website² also included Lonmin in this list, but this appears to have been removed.

THE PATERNOSTER GROUP'S "ZUMA WATCH" VIDEOS

The Paternoster website features the three partners in a video series called "Zuma Watch". The videos usually feature Calland and Naidoo and in one instance Calland and Farmer. There are currently six videos in this series.

Zuma Watch #2 on 9 November 2016 focuses on the Public Protector's State of Capture report. Calland says to Naidoo: "Of course you and others that very day in Pretoria were leading an extremely important perhaps seminal moment in terms of the launch of Save South Africa." Naidoo responds: "Ja, this is a broad coalition of civil society organisations representing people from business to labour to religious sector and a broad cross-section of civil society activists that have come together to say that it's time for Zuma to go and its time for South Africa to clean up its act." Towards the end Calland says: "If you want more information or deeper insights into what's going on in the ANC, any of those crucial pieces of litigation that we've referred to, or other related matters that affect the economy and the markets, be in touch with us, the Paternoster Group."

Zuma Watch #3 on 30 November 2016 features Calland and Farmer. Calland refers to Farmer as "our man in London". Calland later says: "The positive story, Ian, I take out of this is that organisations like Save South Africa, led by Lawson Naidoo our co-founder and others, have really pressed home their case." At the end Farmer invites watchers to contact the group for more information.

Zuma Watch #5 on 31 March 2017 features Naidoo wearing a SaveSA t-shirt. Calland says: "I'm joined here by Lawson Naidoo another founding partner of the Paternoster Group. Lawson you're wearing a Save South Africa t-shirt. Your organisation, of which you're a leading figure, has today said that this was an outrageous decision. Why?" Naidoo responds: "Because we believe it was a reckless decision that was not in the best interests of South Africa, not in the national interest, and this is a government that is now proving to be going rogue. It's losing the confidence of the people

² Accessed 11 November 2016.

within South Africa, of the business community in particular.” Calland ends off the episode: “If you want more insight or intelligence from us please be in touch.”

In Zuma Watch #6 on 4 April Calland turns to Naidoo and says: “I know from your own work in Save South Africa that there is a concerted fight back against Jacob Zuma”. At the end Calland says: “For more information and analysis do get in touch.”

THE PATERNOSTER GROUP’S ANALYSIS OF THE MARIKANA COMMISSION REPORT

One of the publications of the Paternoster Group, which is available on the website, is titled ‘South Africa’s moment of Truth: A critique of the report of the Marikana Commission of Inquiry’. To promote the Paternoster analysis of the Report, the website says: “Ian Farmer, a Paternoster founding partner and co-author of the analysis, was CEO of Lonmin at the time of the tragedy. This has lent added interest to the Paternoster analysis.” The website quotes Farmer as describing the massacre as “a painful moment in my life”. The Paternoster analysis frankly notes most of the Marikana Commission’s adverse findings against Lonmin and at times criticizes Lonmin. However, in a number of places the Paternoster group seems to engage in special pleading on behalf of Lonmin. For example, the Paternoster analysis states:

“None of the protagonists in this unfolding tragedy played their cards well or were without serious flaws. And it should not be forgotten that at the crucial time, Lonmin’s CEO was absent, having been hospitalised with a chronic illness. It is hard to imagine even the most capable and well-prepared employer from coping well with such a spontaneous, dynamic and inherently difficult context. As noted below, the company was cruelly exposed by the lack of adequate intelligence gathering and proper police cover.”

Elsewhere the Paternoster analysis states:

“To a large extent Lonmin was left exposed by the SA Police Service, at least until it was too late and the die was cast.”

Elsewhere the Paternoster analysis states:

“Notwithstanding Lonmin’s protestations about the fairness of the investigation into its own housing obligations, the Marikana Commission opted to hear evidence on the matter and made substantial findings against the company based on Lonmin’s own documents and what the Commission saw for itself during its inspection in loco in October 2012.”

Elsewhere the Paternoster analysis states:

“The responsibility for social and community development cannot just be left at the door of mining companies; government at national, provincial and local levels have constitutionally embedded responsibilities to provide such services.”

Elsewhere the Paternoster analysis states:

“Lonmin’s dilatory approach to housing (as a key part of its SLP commitment) occurred, in fact, with the full knowledge of both government and the NUM in a mutually agreed effort to minimise job losses during the 2009 reorganisation caused by the post-Lehman Brothers 2008 global collapse.”

These examples are not exhaustive. As noted above though, the Paternoster analysis does note many of the Commission's adverse findings against Lonmin and at times corroborates these.

OUR CONCERNS

Our concerns can be summarised, in no particular order, as follows:

1. Clients: The parties listed as having had relationships with the Paternoster directors may or may not be current or past clients of the Paternoster Group, but the Paternoster website is open to this interpretation. The list (EY, Walmart / Massmart, Citi, Bank of America, Merrill Lynch and SFA Oxford) is predominantly foreign multinational financial services companies. As such Calland and Naidoo are open to attack as serving the interests of so-called 'foreign capital'. We do not take such a simplistic view but those wishing to discredit CASAC, SaveSA, all of SaveSA's affiliated organisations and the broader campaign against corruption and for ethical governances can be expected to make productive use of this.

Moreover, a number of these corporations have been involved in criminal activity. Citibank was fined \$140 million in 2015 for violations of money laundering laws related to its work with an energy company involved in a bribery scandal with the Mexican government. The bank is currently being investigated for its role in the bribery scandal at FIFA, the international soccer organization.

In 2008 the US government bailed Bank of America out in the amount of \$45bn. A 2012 report in Rolling Stone Magazine described Bank of America as "the very definition of an unaccountable corporate villain", elaborating as follows:

"Bank of America has systematically ripped off almost everyone with whom it has a significant business relationship, cheating investors, insurers, depositors, homeowners, shareholders, pensioners and taxpayers. It brought tens of thousands of Americans to foreclosure court using bogus, "robo-signed" evidence – a type of mass perjury that it helped pioneer. It hawked worthless mortgages to dozens of unions and state pension funds, draining them of hundreds of millions in value. And when it wasn't ripping off workers and pensioners, it was helping to push insurance giants like AMBAC into bankruptcy by fraudulently inducing them to spend hundreds of millions insuring those same worthless mortgages."

Last year Merrill Lynch admitted to wrongdoing and paid a fine of \$415 million to settle charges that it misused customer cash to generate profits for the firm and failed to safeguard customer securities from the claims of its creditors.

Walmart has faced much criticism over the years for exploitation of its workers, and its bid to enter South Africa through Massmart was resisted with protest action.

Our intention in presenting these examples is to show that it would be relatively easy for opponents of CASAC and SaveSA to make use of the above and other examples to undermine the broad-based campaign against corruption.

2. Misuse of position: As seen above, Naidoo's position within CASAC is used on the Paternoster website to advance the credibility of the Paternoster Group. The Paternoster website also republishes all the Calland's, Naidoo's and Farmer's tweets, some of which are issued in relation to CASAC and/or SaveSA. Moreover, we believe it is reasonable to

assume that both Calland and Naidoo derive some of their knowledge and expertise from participating in the structures of CASAC and SaveSA, where they are privy to a wealth of information, some of it sensitive or confidential, as well as the considered opinions of some of the country's foremost academics, lawyers, religious leaders, business people, activists and others. Calland's reference to "crucial pieces of litigation" in Zuma Watch #2 is a case in point. We are not suggesting that Calland and Naidoo would make improper use of confidential information, but it seems reasonable to assume that all of the above would inform the "political risk analysis, communications and relationship management advisory services" that the Paternoster Group offers. The extent of the overlap seems to some extent improper.

3. Marikana connection: The close association of Calland and Naidoo with Farmer, the CEO of Lonmin Plc at the time of the Marikana Massacre, will likely be latched onto and repeated by those opposed to the work of CASAC, SaveSA, the organisations affiliated to SaveSA and the broader campaign against corruption and for ethical governance. It also makes us uncomfortable. The Marikana Massacre is arguably the moral low point of the entire post-apartheid period. That Calland and Naidoo are business partners of Farmer, a person who can be painted as carrying some indirect responsibility for the massacre, is potentially explosive. It is our understanding that SaveSA and CASAC regard private sector accountability as just as important as public sector accountability. The opposite interpretation might be made by some upon learning that prominent CASAC and/or SaveSA leaders are business partners with the person who was CEO of Lonmin at the time of the Marikana Massacre. This impression may be accentuated by a reading of the Paternoster analysis of the Report of the Marikana Commission. The Paternoster analysis refers throughout to the Marikana "tragedy" (only using the word "massacre" in inverted commas) and as shown above contains more than one attempt to mitigate Lonmin's culpability.
4. Non-disclosure: To the best of our knowledge, the above was not disclosed to organisations invited to affiliate with SaveSA. To the best of our knowledge, the above was not disclosed to (at least some of) the individuals invited to join the Advisory Council of CASAC.
5. Sources of income: CASAC is donor funded and to the best of our knowledge Naidoo is compensated for his time serving as its Executive Secretary. The DGRU is donor funded and to the best of our knowledge Calland has full-time employment at UCT. As persons in civil society who also rely on donor funding for the work of our organisations we are sensitive to the need to maintain the trust of the donor community in civil society generally. We have a further interest in maintaining the public image of civil society as being ethically beyond reproach. In this case, it appears that the clients of Paternoster are supplementing the income of Calland and Naidoo, in part owing to their connection to CASAC and/or SaveSA. We are aware that in academic circles consulting work is not uncommon and do not assume improper conduct here. And whilst we would not normally write to a board member of another organisation in regard to the funding of and remuneration within that organisation, this situation is somewhat different because CASAC and SaveSA are to some extent umbrella bodies taken to be leading a civil society campaign in which we are all invested. CASAC invites a large number of civil society members to join its advisory council and SaveSA invites a large number of civil society organisations to affiliate to it. Moreover, CASAC, SaveSA, Calland and Naidoo are publicly at the forefront of campaigning for an ethical and corruption-free public and private sector, perhaps the central challenge facing the country. We have therefore decided to pose these questions to you privately and collegially rather than have others pose them publicly.

CONCLUSION

- We have copied Richard and Lawson so that they too can share their perspectives with us, should they choose to. We remain open-minded as to what we will learn from the responses.
- We will not circulate this letter or discuss its contents beyond its intended recipients at this stage. We value the work of CASAC and SaveSA and wish to see it enhanced, not undermined.
- We regret that we cannot participate in any activities with CASAC or SaveSA until the matters raised in this letter are satisfactorily resolved. This is necessary to protect the credibility and reputations of our organisations, as well as their members, staff and leadership.
- We request a response for you in your capacity as Chairperson, which we hope to receive within a few weeks. We would appreciate that whatever steps are taken to resolve the above be communicated to us in writing. In addition, we are of course available to meet with you.