

IN THE REGIONAL COURT FOR THE REGIONAL DIVISION OF NORTHERN
TRANSVAAL

HELD AT PRETORIA

CASE NO: 14/09193/01

In the matter between:

THE STATE

and

TONY SITHEMBISO YENGENI

(hereinafter referred to as "Accused No 1")

MICHAEL JOSEPH WORFEL

(hereinafter referred to as "Accused No 2")

ACCUSED NO. 1'S PLEA OF GUILTY

I, the undersigned,

TONY SITHEMBISO YENGENI

do hereby state as follows:

1.

I am Accused No 1 in this matter.

2.

I am charged with two counts. The first count is that of corruption (in contravention of Section 1(1)(b)(i) read with Section 3 of the Corruption Act, 1992). The alternative charge thereto is the crime of fraud. The second charge is that of fraud (count 3).

3.

I hereby change my plea of not guilty to the alternative count to count one to a plea of guilty on a charge of fraud as amended and explained. I admit that I unlawfully and with intent to defraud falsely and to the prejudice of the Parliament of the Republic of South Africa failed to disclose to the aforesaid Parliament that Accused No. 2 gave me a benefit in the form of a discount, and furthermore made the false representations set out in paragraph 4.24 hereunder.

4.

The aforesaid crime was committed under the following circumstances:

- 4.1 In 1994 I was elected a Member of Parliament. In Parliament I was elected a Chairperson of the Joint Standing Committee on Defence. I remained in that position until November 1998 whereupon I was elected Chief Whip of the ruling party.
- 4.2 The Joint Standing Committee on Defence was competent to investigate, and to make recommendations on the defence budget, functioning, organisation, policy, morale and state of preparedness of the National Defence Force and to perform other functions related to parliamentary supervision of the National Defence Force.
- 4.3 Further parliamentary supervision of the Joint Standing Committee on defence included an oversight function to assist the Department of Defence in its acquisition of armaments. The final decision thereon however remained with the Department of Defence.
- 4.4 In my capacity as chairperson of the Joint Standing Committee on Defence, I, collectively with the other members, had the power and/or duty to exercise the aforesaid parliamentary oversight;

defence I was obliged to acquaint myself with the defence industry and the role players thereto. In the discharge of those obligations I had to visit military bases, installations, manufacturers of military equipment and hold discussions with a number of role players to the industry.

- 4.6 In the process of discharging my duties I became friendly with Accused No. 2. He was the head of the representative office of Daimler-Benz Aerospace AG in Pretoria a company whose main business was to manufacture and sell military and civilian aircraft and defence systems. The primary function of accused No.2 was to market the products of Daimler-Benz Aerospace AG in South Africa. The National Defence Force was a potential purchaser of the products of Daimler-Benz Aerospace AG.
- 4.7 In March 1998 I was invited by Accused No.2 to attend an air show in Chile and undertake a tour of the Daimler Benz Assembly Plant in Brazil. Whilst I was in Brazil I learnt that Daimler Benz was due to release a prototype 4X4 Mercedes Benz motor vehicle. I immediately developed an interest in the aforesaid motor vehicle.
- 4.8 On returning to South Africa I enquired from Accused No. 2 if I could get a discount if I were to buy the aforesaid motor vehicle. Accused No. 2 agreed to make enquiries and if possible arrange for the discount. I convinced Accused No. 2 to arrange a discount of approximately 50%. After some negotiations Accused No. 2 arranged that discount.
- 4.9 During October 1998 Accused No. 2 ordered a motor vehicle, a Mercedes Benz ML320 from Mercedes Benz of South Africa (Pty) Ltd, a sister company of Daimler Benz Aerospace (Pty) Ltd, in terms of a purchase discount scheme available to companies and employees of the companies in the group.
- 4.10 Accused No. 2 ordered the said vehicle with the intention to sell it to me

at a 50% discount.

- 4.11 The retail price of the said vehicle was R349 950,00 and the vehicle was wholesaled to Mercedes-Benz dealers at 10% less;
- 4.12 In terms of the discount scheme Daimler-Benz Aerospace South Africa (Pty) Ltd paid R307 458,63 for the said vehicle;
- 4.13 The new vehicle was sold to me for an amount of R182 563,63 at a discount of 47%;
- 4.14 My relationship with Parliament, representing the people of South Africa, was one of trust and I therefore had a duty to:
 - 4.14.1 maintain the highest standards of propriety to ensure that my integrity, and that of the Joint Standing Committee on Defence and Parliament are beyond question;
 - 4.14.2 as chairperson of the Joint Standing Committee on Defence to act without favour as an independent and impartial overseer of the acquisition of military equipment, and to establish and maintain the Joint Standing Committee on Defence as the impartial parliamentary overseer;
 - 4.14.3 not to take any improper benefit or advantage given by virtue of the office that I held; and
 - 4.14.4 to act in good faith and to make full disclosure to Parliament of any personal interests which could place me in a position where such interests conflict with my duties.

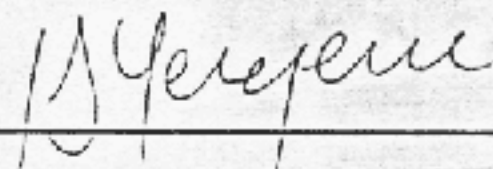
- 4.15 The discount that I received was not available to the public, or to dealers. I realised that it was highly unlikely that I would have received the benefit had I not been a high profile person and Chairperson of Joint Standing Committee on defence.
- 4.16 The Code of Conduct in regard to financial interest of members of Parliament was adopted in Parliament on 21 May 1996.
- 4.17 The rationale for the code is stated as follows:
- " In order to achieve a political order in South Africa that is open and transparent and accountable as envisaged in the Constitution, it is essential that their integrity and that of the political institutions in which they serve are beyond question"*
- 4.18 The Code further states that in general no person bound by this code must place himself in a position which conflicts with his responsibilities as a public representative in Parliament, nor may he take any improper benefit, profits or advantage from the office of the member.
- 4.19 The discount that I received from Accused No.2, who represented a supplier of military equipment, was an improper benefit and therefore constituted an infringement of my duties.
- 4.20 The Code stipulates that members of Parliament have to register certain interests. The benefit received by me was a registerable interest as envisaged in paragraph 4 of the Code of Conduct.

- 4.21 I failed to register the said benefit, and failed to disclose the receipt of the benefit to Parliament in any other way
- 4.22 My failure to disclose the benefit constituted a breach of my above duties and was potentially prejudicial to the integrity and reputation of, and trust in Parliament.
- 4.23 As a result of my failure to disclose, Parliament was misled or could have been misled to believe that I was exercising my powers and performing my duties in the manner required.
- 4.24 When information of the benefit became public knowledge, Accused No.2 and myself made the following misrepresentations in an attempt to account for my improper conduct:
- 4.24.1 *document* during or about the period May to September 1999, ^I signed ^a ~~and back~~ dated to 15 October 1998, an agreement of sale in respect of the said vehicle for the falsely inflated amount of R230 052,00
- 4.24.2 falsely gave out that the vehicle was damaged during transport and that the vehicle was sold as a used vehicle without a warranty;
- 4.24.3 falsely gave out that I paid a deposit of R50 000;
- 4.24.4 falsely gave out that it was a proper sale transaction in the normal course of business, and
- 4.24.5 caused an advertisement to be published in the national

press wherein I falsely attempted to give out that there was nothing improper about the benefit.

4.25 The above misrepresentations were made with the intent to defraud Parliament.

5. I admit that I failed to disclose to Parliament, in circumstances where there was a duty to disclose that I received the benefit referred to above from Accused No. 2., and that I misrepresented the facts and events as set out in paragraph 4.24.



TONY SITHEMBISO YENGENI