

Response by Clarence Tshitereke, chief director: office of the director general of the human settlements department

Mr Duarte has informed the department that he has registered a Pty Ltd, which is fully within his rights to do. He has also informed the department that the company was registered in 2007 and has not traded.

The establishment by staff members of Thubelisha of an entity such as PTYTRADE 407 is one of the options catered for in the closure plan approved by the previous minister of housing [Lindiwe Sisulu]. Mr Duarte has informed the department of this matter, and has assured the department that at no time was the intention to take over uncompleted Thubelisha contracts.

We had envisaged that the Housing Development Agency (HDA) will take over the projects from Thubelisha. However, not all the projects will be taken and some will have to be handed over to either to provinces to suitable project managers.

Mr Duarte has informed the department that the Mossel Bay municipality projects you refer to were not part of Thubelisha's projects.

Mr Duarte has declared his interest in PTYTRADE 407 and assured the department that there is no conflict of interest in his holding an interest in that company. We would also remind you that Mr Duarte has informed us that PTYTRADE 407 has not traded, so you are incorrect to assert that he is "working" for that company.

Of course the department is aware that Mr Duarte is visiting Thubelisha projects in various parts of South Africa – it is a key component of the final phase of the process and is necessary to ensure that the assets of the company are protected, and that the finalisation of projects is taken care of. It would be irresponsible not to visit projects.

He is also generally accompanied by members of the auditing team responsible for overseeing the final phase of Thubelisha's work. Are you casting aspersions on anyone and everyone who travels with Mr Duarte – and if so, on what basis?

Travel costs are managed within the terms of reference of the closure plan, in line with the Public Finance Management Act, and as overseen by an independent team of auditors appointed by the Auditor General.

We have not been informed of this allegation [that Duarte is using Thubelisha resources to set up PTYTRADE 407].

Response by John Duarte

1. According to company registers at Cipro, you were appointed as a director of PTYTRADE 407 on 2007/02/06. Why did you register said company and what was its mandate?

PTYTRADE 407 is a shelf company acquired sometime ago and hasn't traded yet.

2. We are in possession of an email sent by you to certain Thubelisha staff members and other individuals on August 26 in which you state the following: "I want to set up a domain for our e-mails something line [sic] what we had in our Thubelisha e-mails or one we can use as brand, Regards, Johno". What did you mean by this message? Did you refer to PTYTRADE 407, and if so, does this email suggest you

are setting up a private company with other Thubelisha staff members whilst still in the employ of Thubelisha?

The emails were to be set up for staff no longer permanent employees of Thubelisha.

3. Why did you send the above mentioned email to the following people? [are they involved in setting up PTYTRADE 407?]:

- * **Kanozi Mlotha**
- * **Mano Pillay**
- * **Emelia McNamara**
- * **Ronnie Moalusi**
- * **Oliver Yates**
- * **Sathia Moodley**
- * **Allistair Cullum**
- * **Mandla Gama**

I sent it to these individuals as I thought they may be interested. The idea was subsequently abandoned as no one responded.

4. Is the housing department and / or director general of housing and / or the minister of housing aware of your involvement in setting up PTYTRADE 407?

PTYTRADE 407 was not “set up” it existed since 2007.

5. We are also in possession of a letter sent by Ms McNamara, which we believe is your PA, on behalf of Mr Cullum, Thubelisha’s project manager in Mossel Bay, to Mr Colin Puren of the Mossel Bay Municipality on July 30. In this letter Cullum highlights PTYTRADE 407’s proposal to complete Thubelisha’s work in Mossel Bay.

5.1 Is PTYTRADE 407 attempting to take over the Mossel Bay housing projects of Thubelisha?

5.2 Did you and / or PTYTRADE 407, of which you are the sole director, get permission from the department of housing to pursue the Mossel Bay project?

5.3 Do you believe it is proper for your private company [PTYTRADE 407] to take over Thubelisha’s unfinished government-funded projects?

5.4 Why aren’t all Thubelisha’s unfinished projects transferred to the newly-established Housing Development Agency? (You were quoted by the M&G two weeks ago as saying: “Liquidation could be messy, as the idea was to transfer the operation’s projects to the government’s new housing development agency.”)

5.5 Why should your involvement, as CEO of Thubelisha, in setting up a private company [PTYTRADE 407] with the aim of taking over Thubelisha's unfinished projects not be viewed as a gross conflict of interest?

We did the proposal at the request of the municipality after they were informed by the HDA that they (the HDA) would not be taking over the provincial/provincial projects. The establishment of an entity such as PTYTRADE 407 is catered for in the closure plan approved by the previous minister of housing [Sisulu]. The DG [Itumeleng Kotsoane] was also informed, in writing of the staff's intentions and the matter was also raised at the closure steering committee.

The establishment of alternative business entities is in line with other entities that are being closed by the department of human settlements and is viewed as a solution to assist with the crisis that affected staff find themselves in.

At no time was the intention to take over uncompleted contracts of Thubelisha. Insofar as the Mossel Bay municipality is concerned the projects discussed were not part of Thubelisha's projects. Because Thubelisha closed operationally at the end of July 2009 and projects were handed back to the principals as at the end of July 2009 the ownership of the project would have been in the hands of the principal at that date.

There is no conflict that I am aware of; processes and procedures were followed. These matters came up incidentally as we were dealing with the transfer of projects back to the owner.

6. Thubelisha's travel records show that you, Ms Emelia McNamara [Duarte's personal assistant] and other staff recently traveled extensively in South Africa, while Thubelisha is being closed down. On a number of these trips your party traveled business class, on Thubelisha's budget. As reported in the M&G two weeks ago, the housing department guaranteed R240-million for Thubelisha to be closed down.

6.1 Why were you making trips to Thubelisha projects all over South Africa while Thubelisha is in the process of being closed down?

6.2 Is it common for the CEO to travel to Thubelisha projects all over the country?

6.3 Is it common and proper for the CEO's PA to accompany him on these trips?

6.4 Is it Thubelisha's policy for the CEO and other staff members to travel business class on domestic flights?

There seems to be a misunderstanding as to the costs of travel and funding thereof. This is in the normal course of business as the projects that Thubelisha is involved in, generates a fee that pays for these costs. These costs do not form part of the closure costs. As part of the closure process travel would have to be undertaken to the various areas to ensure that the management and finalisation of projects are taken care of and that assets/income of the company is protected. To this end the accounting office may take an assistant with him to assist in the execution of this duty.

The *Mail & Guardian* and perhaps their sources seem to suggest that this can be done remotely in an organisation of this size and complexity. To take a staff member on these trips is standard practice within the department of housing and is the prerogative of the accounting officer.

Without going into the specifics of the various days of travel:

* The Cape Town trips would have been around N2 Gateway matters, staff matters, summonses to attend meetings called for by government, province staff representatives, the HDA, Servcon, portfolio committee meetings, the department of housing, Thubelisha financial matters, meetings with contractors, meetings with legal representatives, closure matters, cessions to the HDA, investigations into contractual financial matters etc.

* Port Elizabeth would be due to meetings called with the staff, the province, the department of housing, cessions to the HDA, The Zanemvula project, contractor matters, audit investigations etc.

* East London would have required interaction with Buffalo city, various projects, staff and closure matters, etc.

7. In the interview with our colleague Glynnis Underhill, you stated that part of the R240-million to shut down Thubelisha is used to pay for “leased office premises” whose leases have not expired. The M&G has been told by impeccable sources that you gave up free office space for Thubelisha’s Johannesburg office in Killarney, and instructed the rental of new offices in Parktown at R20 000 per month after the closing down of Thubelisha was announced. How do you justify this decision in light of budgetary concerns and the fact that Thubelisha is an “empty shell”, being closed down?

[No response received from Duarte.]

“I won’t dignify other derogatory statements of impropriety with a response,” Duarte said in response to questions about allegations that he is using Thubelisha’s resources to set up a parallel private company.