

## News

# Construction firms rat on rivals

Work has slowed in the building sector; the ethic now is dog eat dog and 'spill the beans'

Chantelle Benjamin

**F**irms in the construction sector are turning on each other, offering information on bid rigging involving other companies to competition authorities in a bid to get more lenient treatment.

This has resulted in an additional R20-million in fines being issued by the Competition Tribunal in the past few months. As revelations continue, it is likely that more companies will come forward with information.

Meanwhile, the Hawks have revealed their probe into corruption in the construction sector is ongoing, and could see criminal action being taken against directors of construction companies.

Hawks spokesperson Paul Ramaloko, who was reluctant to discuss individual cases, said "notable progress" has been made in the investigation.

Twenty-one firms responded to the Competition Commission's offer of a fast-track settlement and, in the end, 15 were fined in June last year.

Over 300 instances of bid rigging were uncovered in that probe, but time requirements in the Competition Act meant that settlements were reached only with respect to projects concluded between September 2006 and February 2010.

Group 5, Construction ID and Power Construction chose not to settle, and many companies still have outstanding disputes with the commission.

Mava Scott, spokesperson for the Competition Commission, said it will be referring companies that have not co-operated with the fast-track process "to the tribunal for prosecution".

Documents presented to the Competition Commission show meetings between named staff members from construction companies where bid-rigging discussions took place regarding projects such as World Cup stadiums.

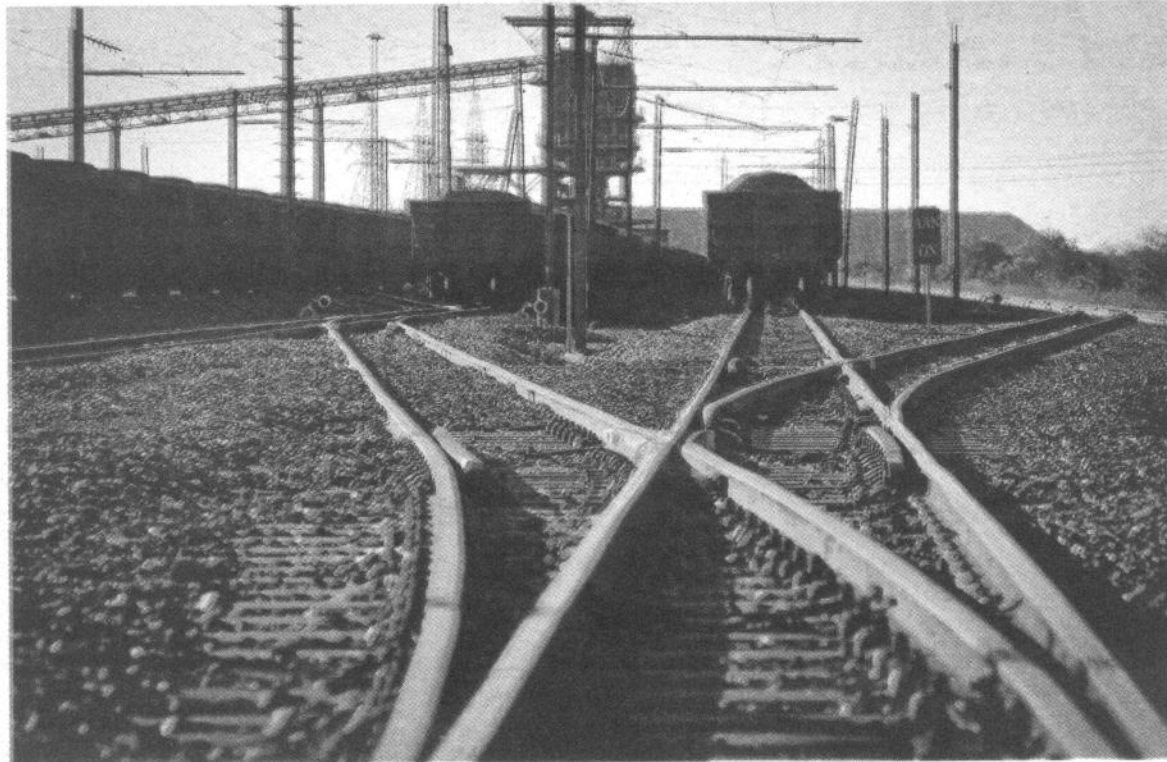
Murray & Roberts, which paid a R309-million fine in terms of the Competition Commission's fast-track programme, has confirmed that it has laid charges against six former executives under the Prevention and Combating of Corrupt Activities Act.

With regard to the fines issued this year, Wilson Bayly Holmes-Ovcon (WBHO) was accused of making a deal with Concor, a subsidiary of Murray & Roberts, and a company called Lennings to ensure that it won the bid for the Sishen-Saldanha rail project.

Harding Allison revealed in its settlement agreement that it had agreed to a cover price for a contract involving Renault Motor Company in Umhlanga, to ensure that Group 5 got the job.

The B&E case saw the company reach an agreement with Grinaker-LTA on a Braamfontein quarry dam tender.

Afrifocus construction analyst Hugu Chetty said the sector has been hit hard by weak economic conditions and concerns over possible large civil claims from injured parties, should the companies be found guilty. "The last three years have seen some companies' share prices drop



**Off the tracks:** Wilson Bayly Holmes-Ovcon paid a hefty fine for colluding on costing for upgrading a section of the Sishen-Saldanha railway line. Photo: Nadine Hutton/Bloomberg

ping as much as 50% to 60%," he said.

Chetty said the companies have had to adapt by "stripping out non-essential divisions", focusing on specific areas or diversifying.

This year, four construction-related companies paid fines amounting to R21.9-million for bid rigging in return for full disclosure. Three of them were not among the 15 firms fined R1.46-billion in June last year for bid rigging.

WBHO, which paid a R311-million fine in June 2013, in February this year paid a further R10-million penalty, after admitting collusion on costing for upgrades on a section of the Sishen-Saldanha railway line.

The other companies fined this year for bid rigging, mostly with larger corporates, are Cycad Pipelines, R3.3-million; B&E International, R8.1-million; and Harding Allison Close, R78 821.

Late last year the tribunal confirmed a settlement of outstanding issues with Hochtief Construction and Stefanutti Stocks.

Stefanutti, already battling to pay the initial fine of R306-million, was fined an additional R56-million administrative penalty towards the end of last year.

Murray & Roberts spokesperson Ed Jardim said all former executives who had been reported to the police had left the company by the end of 2010. "They were, in some instances, directors of subsidiary companies, not at group level."

Murray & Roberts is also seeking financial settlements from those concerned and according to Jardim, one former director has already settled.

Aveng said it has applied sanctions against individuals found to be involved in collusion or bid rigging, which includes dismissals and demotions.

The Black Business Council (BBC) is considering a class action on behalf of emerging contractors. Charles Abrahams, BBC's legal representative, said he will soon be providing his legal opinion on the matter.

The council has applied for over 100 certificates of decision confirming that the 15 construction companies have breached the Competition Act, opening the way for civil claims for damages.

Abrahams said the challenge for claimants with small to medium businesses will be proving and quan-

tifying damages. "It's a lot harder for a small company to prove damages than a larger entity like the City of Cape Town or the South African National Roads Agency," he said.

Earlier this year, Murray & Roberts chief executive Henry Laas said the

findings of the investigation had had catastrophic implications for the company's image.

The company delivered diluted continuing headline earnings per share of 205 cents, up 67% on June 2013, and revenue of R36-billion.

It said it planned to diversify its activities more, which was well received by the market, by concentrating more on the oil and gas sectors, as well as underground mining and energy.

WBHO saw earnings per share drop by 30.8% in its last year, brought down by its steel pipe business in Mozambique, according to its head, Louwtjie Nel.

Chetty said work in the construction sector has dried up. Companies in the sector have to look at more creative ways of making money, he said, which is why WBHO is diversifying its order book and looking more to Australia, whereas Group 5 is doing very well focusing on renewables.

Another downside of the market, as highlighted by groups such as the BBC, is that the slowdown in construction has taken its toll on smaller construction companies.

"The larger companies, in order to pay the bills and keep jobs, took on contracts with much smaller margins — in some cases zero margins, which smaller companies did not have the cash in the bank to do," he said.

"The bigger companies also started operating in the areas where smaller companies worked by taking on small jobs, like R50-million jobs, in order to survive. So we saw the loss of some of the smaller companies."