

■ CORRUPTION

Guptas 'will find it tough to do business'

SIPHO MABASO

sipho.mabaso@inl.co.za

THE government of the US released a statement this month in terms of the Magnitsky Act which bars the Gupta family from the US and prohibits any companies and persons under US jurisdiction from doing any business with the Guptas, who left South Africa for Dubai, United Arab Emirates.

The Magnitsky Act is activated by the US government when acts of human rights abuses and corruption in a country or territory threaten the stability of international political and economic systems. It is meant to protect the US financial system from abuse by persons charged with corrupt practices.

US and international firms with American subsidiaries risk violating US sanctions should they conduct any business with the sanctioned persons, according to Human Rights Watch.

Edward James, an attorney in the forensics department at multinational law firm ENSafrica, said the sanctions imposed on the Guptas meant their scope of operation globally has shrunk significantly.

James further indicated that companies with a global footprint will not have any dealings with the Guptas because it is "very difficult to hide from the US government" and therefore the sanctions "close out" the Guptas globally.

"Simply transacting through a bank is going to be difficult," said James.

James and Steven Powell, director of forensics at ENSafrica, in an explanatory note entitled "The Implications of

Ofac (Department of the Treasury's Office of Foreign Assets Control) sanctions on the Guptas', indicated that the steps taken by the US Department of Treasury signify a willingness by the US to police corruption globally.

Powell and James said Ofac, which is not a judicial body, but rather a department within the US Treasury that operates within legislative, regulatory and executive mandates, maintains a list of Specially Designated Nationals to which the Guptas and their associate Salim Essa have been added.

"It is important to note that neither the Guptas nor Essa have been found guilty of any crime by a court. Ofac's decision is based on information available to it and, unlike a criminal prosecution, there has not been any formal trial in which evidence was presented."

They said banks would likely avoid holding accounts for the Guptas because most major banks are exposed to the US financial system.

David Loxton, chief executive of the anti-bribery and corruption compliance and investigations advisory firm Africa Forensics and Cyber and a member of the SA and US chapters of the Association of Certified Fraud Examiners, said the Guptas would find it "extremely difficult to do business" because the sanctions have a ripple effect.

"Other countries will take note and might impose similar sanctions. US authorities will be co-operating further with the SA authorities to trace and freeze all Gupta assets, wherever they are," said Loxton.