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KPMG: Reasons to be Skeptical of the Advice They Offer

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It is curious that the Pallister government would have hired consulting firm KPMG to provide advice on how to manage the Province's affairs. KPMG's actions across the world and in Canada—some illegal; many promoting the interests of the exceptionally rich at the expense of the rest of us—suggest that we should be very wary of any advice they might offer.

KPMG South Africa, to take one example, is currently embroiled in a major scandal involving the firm's relationship with the Gupta family's business empire. In September, 2017, Business Leadership South Africa (BLSA) suspended KPMG's membership, even after KPMG had fired nine of its top executives. Several major South African companies have severed their relationship with KPMG SA. KPMG's Global Chairman has apologized for the firm's failings in South Africa; the incoming head of KPMG SA has said that "This has been like a near-death experience for KPMG."

KPMG South Africa was the auditor for the Gupta companies when several million dollars were diverted to a lavish Gupta family wedding in Sun City in 2013. KPMG admitted in a September 15 2017 Media Statement that "the audit teams failed to apply sufficient professional skepticism and to comply fully with auditing standards."

KPMG SA also provided tax avoidance advice to Gupta businesses. Off-shore tax avoidance schemes are a specialty of KPMG. In their Media Statement KPMG acknowledged that "it has been alleged that tax advice given to Gupta entities involving offshore structures was illegal or improper." The Media Statement reported that their legal advice was that "KPMG did not act unlawfully or improperly in giving the advice," a statement that, given KPMG's activities elsewhere, called to mind former President Richard Nixon's reassurance to Americans that "I'm not a crook."

KPMG SA did consulting work for the South African Revenue Service (SARS), and produced a report. In their September 2017 Media Statement KPMG acknowledged that the report's findings "should no longer be relied upon," because the report has "been revealed to have been seriously compromised by the inclusion of at least 16 points in its recommendations and findings copied and pasted from recommendations made by SARS' own legal representatives." In other words, KPMG was investigating SARS, but

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allowed SARS' legal firm to write the conclusions to KPMG's "independent" report.

Closer to home, in the USA, KPMG paid a fine of $456 million in 2005 for an illegal tax avoidance scheme, as part of a "deferred prosecution agreement" designed to avoid an indictment. In an August 2005 statement the US Department of Justice wrote that:

> In the largest criminal tax case ever filed, KPMG has admitted that it engaged in a fraud that generated at least $11 billion in phony tax losses which, according to court papers, cost the United States at least $2.5 billion in evaded taxes.

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The Commissioner of the Internal Revenue Service said at the time that:

> At some point such conduct passes from clever accounting and lawyering to theft from the people. We simply can't tolerate flagrant abuse of the law and of professional obligations by tax practitioners, particularly those associated with so-called blue chip firms like KPMG.

In response to these findings of illegality, KPMG said in a June 2005 public statement that more than a dozen KPMG tax officials had been fired or forced to retire, and the company has "undertaken significant change in its business practices."

Nevertheless, in April 2017 the New York Times reported that KPMG had fired six employees, including the head of its audit practice in the USA, because they had been given improper warnings of impending investigations by KPMG's regulator, the Public Company Accounting Oversight Board. The NYT added that: "The announcement is another potential blow to KPMG's reputation after questions have been raised in recent years about why it failed to uncover illegal sales practices at Wells Fargo or potential corruption at FIFA, the governing international body of soccer."

At the same time more than 1000 of KPMG's female employees in the USA, current and former, are engaged in a class action gender discrimination lawsuit against KPMG. According to a May 2016 report in the publication Accountancy Age, "KPMG has been accused by the plaintiffs of developing a hostile work environment in which women are underpaid and rarely promoted to leadership roles." The article adds that "the lawsuit contains details of how KPMG slashed [the lead plaintiff's] base salary by $20,000 while she was on maternity leave because she was being paid 'too much.'" KPMG has denied these allegations.

Still closer to home, in Canada, the Canada Revenue Agency (CRA) has offered amnesty to wealthy Canadians caught using what the CRA has described as an offshore tax "sham" that has been designed, marketed and implemented by KPMG. Jonathan Garbutt, described as "a veteran Bay Street tax lawyer," is reported by CBC News to have said about this amnesty arrangement: “It’s outrageous. The CRA appears to be saying to Canadians, ‘If you’re rich and wealthy, you get a second chance, but if you’re not, you’re stuck.” Although the letter offering amnesty to the wealthy tax avoiders is silent about whether KPMG will similarly be offered amnesty, it has been reported that “experts consulted by CBC News raised concerns that the large accounting firm, with close ties to the federal government, could also be off the hook.”

Starting in 1999, KPMG marketed the tax avoidance scheme to Canadians worth $5 million or more. CBC News—which has done extensive research and produced an hour-long documentary (http://www.cbc.ca/fifth/m/episodes/2016-2017/kpmg-and-tax-havens-for-the-rich-the-untouchables)on KPMG’s tax avoidance scheme—reported in March 2017 that:

> The tax dodge was based on a simple—if fictitious—idea that “high net worth” clients give away their fortunes to an Isle of Man shell company. The money would be invested offshore and would be returned back to Canada, again untaxed, as a so-called gift.

One wealthy family in Victoria, BC, who put $26 million into the scheme in 2002 and 2003, is reported to have paid a mere $3049 in taxes in a 10 year period ending 2011. KPMG collected $300,000 in fees—they reportedly take a 15 percent of all taxes that are avoided.

When the Parliamentary Finance Committee held hearings on tax evasion and avoidance, the Director of Canadians for Tax Fairness reported that he “got a gag order.” He was prohibited from referring specifically to KPMG—as insisted by KPMG lawyers.

Prem Sikka, Professor Emeritus of Accounting at Essex University in the UK, refers to the Big Four accounting firms, including KPMG, as the “Pin-Stripe Mafia.” Sikka quotes a former Commissioner of the US Internal Revenue Service (IRS) saying:

> a senior tax partner at KPMG…had advocated—in writing—to leaders of the company’s tax practice that KPMG make a “business/strategic decision” to ignore a particular set of IRS disclosure rules. The reasoning was that the IRS was unlikely to discover the underlying transactions and that even if we did, any penalties assessed could be absorbed as a cost of doing business.

Sikka claimed in 2011 that KPMG was “still heavily into tax avoidance,” and had an “inventory of 500 tax avoidance schemes.”

It is a splendid irony that even while helping wealthy people and corporations to avoid paying their fair share of taxes, and taking a cut of 15 percent of the taxes that are avoided, KPMG is busy advising governments, like the government of Manitoba, to cut spending on public services that are important to all of us, and especially those of us who are not wealthy enough to use off-shore tax avoidance schemes.

Given KPMG’s record, of which I am re-

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lating only a small part, why would the Pallister government have hired them to provide advice on governing Manitoba, at a reported cost of $740,000? Either the Pallister government knew of KPMG's record, in which case it is difficult to know why KPMG would still have been hired. Or the Pallister government did not know of KPMG's record, in which case we are entitled to ask why.

Whichever is the case, we can see whose interests KPMG serves, and that should make almost all Manitobans skeptical of their advice.

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