Notice of intention to institute disciplinary action

**Collab. Ref.:**

**File Ref.: Sp. Memani, M**

**2020-02-05**

Mr. Mbulelo Memani

Chief Financial Officer

Financial Services

Knysna Municipality

KNYSNA

6570

 **By email / hand:** **cfo@knysna.gov.za**

**ATTENTION: MR. MBULELO MEMANI**

Dear Mr. Memani,

**NOTICE OF INTENTION TO INSTITUTE DISCIPLINARY ACTION: M MEMANI**

The above matter refers.

This letter serves as a notice of intention to institute disciplinary action against you for contravening the Local Government: Disciplinary Regulations for Senior Managers 2010, published under Government Notice 344 in the Government Gazette 34213, dated 21 April 2011 (hereinafter referred to as “the Disciplinary Regulations”), and specifically Annexure A, Part II, Acts of Misconduct: Serious Misconduct, read together where applicable, with Schedule 2 of the Local Government: Municipal Systems Act, 32 of 2000, as amended, Code of Conduct for Municipal Staff Members.

You are hereby given the opportunity to respond to the allegations below within seven (7) days of receipt of this letter as to why disciplinary action should not be instituted against you and to determine if these allegations of misconduct should be brought to the attention of the municipal council.

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Failure to make any submissions will result in the referral of these allegations to the municipal council in order to appoint an independent investigator to investigate these allegation further, in the event council find that there is reasonable cause to believe that an act of misconduct has been committed.

The allegations against you are as follow:

1. *Maladministration within the Directorate of Finance leading to fruitless and wasteful expenditure; Gross Negligence; Gross insubordination; Threats / Victimisation*
	1. *Mal-administration within the Directorate of Finance for example Senior Managers vs Managers. Execution of travelling allowance in 2017. Over reliance to consultants whilst you have a full complement of staff especially at management level.*
	2. *Invoking of Regulation 32 in terms of piggy back on tenders from other organs of the state despite the directive from National Treasury advising municipalities that Reg. 32 is illegal.*
	3. *Non-implementation of ERP which was meant to integrate existing systems and sub systems and this non-action has led the Knysna Municipality to incur substantial costs to maintain service and licence fees.*
	4. *Failure to draw up a credible financial plan as well as advising the Accounting Officer as to why the approved National Treasury ratios were not used to guide the process of drafting 2019/2020 budget.*
	5. *Failure to advise the Accounting Officer that the implementation of the approved loan funding by Council should be delayed and that is one of the causes of financial crisis that the Municipality is currently experiencing.*
	6. *Failure to advise in writing the Accounting Officer of imminent financial crisis so that the Accounting Officer can advise the Deputy Mayor to table an early adjustment budget.*
	7. *You misguided the process of drawing up of draft budget for 2019/2020 financial year as you proposed ambitious, unachievable and unrealistic budget projections which is not cash backed.*

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* 1. *You failed to implement internal financial controls in terms of expenditure as the income was declining, instant you allowed creditors to be paid outside the 30 day period as prescribed in law and that had serious cash flow implications for Knysna Municipality.*
	2. *Failure to advise the Accounting Officer in writing that revenue enhancement is a serious problem for Knysna Municipality and propose remedial actions as a financially responsible CFO.*
	3. *You initiated the payment of BUKHO Consulting for building material without confirmation certificate from the professional consultant.*
	4. *Gross insubordination when you refused to present a report to TMT of the placement committee as the chairperson of the later, instantly you claimed that this is the responsibility of Director: Corporate Services. This happened after two previous TMT meetings when you said that you will submit the report.*
	5. *Gross mismanagement of SCM processes which resulted to surmountable appeals and litigations which cost Knysna Municipality thousands if not millions of Rands because of your ill-advice and poor decision making.*
	6. *You colluded with some Managers telling them that the Municipal Manager must be removed after a meeting the latter had with you in his office; IT Manager and Annual Financial Statements Manager respectively where we discussed the status of Enterprise Resource Planning.*
	7. *Failure to implement a decision of TMT to establish a multidisciplinary fundraising Committee that would mobilise funding for unfunded IDP projects.*
	8. *You presented an inferior Section 52(d) report with glaring mistakes and misstatement of figures which did not make sense to the reader. This was an embarrassing situation where as Accounting Officer had to apologise to Council. Despite paying thousands of Rands to consultant who was appointed to assist with the drafting of credible AFS.*
	9. *On 31 January 2020 you had a managers meeting where he told them that there are staff members who want you to be investigated for maladministration and mis-financial management, and that you “will deal with those and that will not stop there”, you will also “deal with the children” and a similar message was conveyed to Director: Corporate Services. The above is a serious misconduct by senior official of Knysna Municipality who’s supposed to be an exemplary to managers and his staff. This is a threat that cannot be treated lightly.*

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* 1. *Arranging meetings with Auditor General and Provincial Treasury without the knowledge of the Accounting Officer and undermines the latter’s authority at its core. The Accounting Officer will only be told that a meeting has been arranged and details are shared either informally or via emails.*
	2. *Failure to submit timeous compliance report for Council’s agenda has compromised the office of the Speaker and that of the Municipal Manager*

*because Councillors do not receive agendas on time so that they can peruse and make comments.*

* 1. *No prior approval was requested by yourself for the payment of Eleven Million Rands (R11m) to Sakhikaya Suppliers and only provided the requisition and invoice to the Municipal Manager to be signed off even though the Municipal Manager delayed the process for approximately two (2) weeks; The user department, Technical Services was not even aware of the request and did not make any themselves.*
	2. *The CFO submitted a memorandum to the Municipal Manager requesting extension of the contract of Sakhikaya Suppliers notwithstanding the fact that it was a piggy back tender but the Municipal Manager declined same.*
	3. *Tsengwa trading as Civil was paid on 12 December 2019 an amount of R50 000.00 and again aid on 20 December 2019 an amount of R61 875.00. It is alleged that the Deputy Mayor receives kick backs from this entity.*
	4. *NR Hlangula Projects was paid on 20 December 20109 an amount of R105 000.*
	5. *Seasons Find 1199EC was paid on 13 December 2019 an amount of R70.000 and again on 31 December 2019 and amount of R124 991.*
	6. *The two above entities (v + w) it is alleged that one of the Directors is related to the Chief Financial Officer.*

**These are just few from a six (6) page report that was submitted to my office.**

Submit your response by hand to the Office of the Municipal Manager, Knysna Municipality or by e-mail at mm@knysna.gov.za.

Your urgent attention to this matter would be highly appreciated.

Yours faithfully

**DR. S W VATALA**

**MUNICIPAL MANAGER**

**Acknowledgement of receipt:**

**Recipient name and surname: Mr. Mbulelo Memani (CFO)**

**Signature:**

**Date: 05/02/2020**