

5th March 2021

Honorable MP Mapulane, MP

Chairperson of the Portfolio Committee on Higher Education, Science and Technology

National Assembly

90 Plein Street, 3rd Floor

Parliament

Cape Town

8000

RE: OVERSIGHT ENQUIRY INTO THE APPOINTMENT OF PROFESSOR P MBATI AS VICE-CHANCELLOR OF SEFAKO MAKGATHO UNIVERSITY AND RELATED MATTERS:

1. INTRODUCTION

- 1.1 My first submission to you of 28/08/2020 dealt in more detail on the false allegations of sexual harassment against me by Prof. Phendla (*hereinafter referred to as Phendla*) which were rejected by the Courts. In view of the revised terms of reference, in which you have acknowledged the separation of powers between the judiciary and the legislature, and further changed the terms of reference to the effect that the intention of this inquiry is not to review the decisions of the courts which confirmed that Phendla's summary dismissal from the University of Venda (*hereinafter referred to as Univen*) on the accounts of corruption was procedurally and substantively fair, I am compelled to submit this supplementary statement.
- 1.2 In these proceedings, as per the Chairperson's letter of 10 February 2021, I am called to respond to allegations relating to the following:

1.2.1 The failure of Univen management to implement sound financial and supply chain management processes and to properly manage the institution, including various infrastructure projects;

1.2.2 The fruitless and wasteful expenditure relating to the use of external services providers and legal consultants.

- 1.3 It is clear from the above that I am not called to respond to allegations of the sexual harassment and related matters. It is however worth noting that there have been several allegations as per testimonies presented by your witnesses which have gone beyond the terms presented to me as per the letter of the Chairperson of 10 February 2021.
- 1.4 It is common knowledge that the allegations that HETN has lodged against me to the parliamentary portfolio committee, and which as the Honorable Chair has constantly reminded us, forms the basis of this inquiry.
- 1.5 It is also common knowledge that HETN similarly lodged a court application which consists of PART A and PART B, this being a Judicial Review application and an urgent interdict. This case was lodge around June 2020 challenging my appointment as Vice Chancellor at SMU at the Gauteng Division: Pretoria under case no: 22756/20. I have opposed the urgent interdict application and it has since been dismissed and/or withdrawn by the HETN. SMU has opposed both the urgent application and the judicial review proceedings, and the judicial review case pends at the High Court.
- 1.6 It appears to me therefore that this matter is still under judicial consideration and therefore prohibited from public discussion elsewhere, including before this committee (i.e *sub judice*) and that the courts should therefore be allowed to make a determination on the veracity of the allegations from HETN.
- 1.7 Dr. Legoabe at the beginning of his testimony confirmed that Prof Phendla is a Director at HETN, the same organization that now fiercely presents her case to the Portfolio committee.

Before I present my evidence, it is imperative of me to highlight and record the apparent biasness and irregularities in this inquiry:-

2. APPARENT BIASNESS AND IRREGULARITIES IN THIS INQUIRY

2.1 The Chairperson of the Portfolio Committee has previously been on record on various media platforms, *i.e* Radio 702 around September 2020 in which he has pronounced my guilt, alleging that I have never been held to account on the allegations of sexual harassment and that a cloud still hangs over my head. He questioned why should I be allowed to occupy a position of Vice Chancellor with a cloud hanging over my head.

2.2 This I submit was a fragrant violation of the legal prescripts of *audi alteram partem* of natural justice and immensely violated my dignity and human rights as the Chairperson had not heard my side of the story.

2.3 In doing so, the Chairperson of the Portfolio Committee Honorable Mapulane has demonstrated open hostility and biasness against me. For him to further proceed to chair this inquiry only leads me to conclude that the outcome of this inquiry will be unfair and is prejudged against me.

2.4 The Chairperson has out of the more 20 000 University of Venda community elected to call as witnesses in this matter, former employees of the University of Venda who were dismissed by the University of Venda for misconduct during my tenure as the Vice Chancellor and Principal. I will term these former employees, a coalition of the wounded. **Tshitereke** negotiated his way out of the University pursuant to disciplinary processes that were being instituted against him for misconduct. **Makhado** was dismissed for misconduct by the disciplinary hearing, which dismissal was confirmed by the CCMA. I was advised that he has since abandoned his Labour court review case. **Nemadzivhanani** was expelled from Univen following allegations of misconduct. From his own testimony in this inquiry, Nemadzivhanani won the case at the Labour appeal Court after having been out of work for a period of nine years. **Manenzhe**, lost a case at the disciplinary hearing wherein he was the complainant. The person he was accusing was found not guilty by the disciplinary hearing and he accuses me of protecting the accused

employee. **Phendla** was dismissed by the University of Venda following allegations of corruption. The Labour Appeal Court confirmed her dismissal.

2.5 The one thing which the witnesses listed above have in common, is that they are disgruntled former employees, who are all accusing me of having propagated their downfall, despite the legal processes which Univen had followed to discipline them for their misconduct. I submit that they all have a common motive to punish Mbatlana for their woes. They are all vengeful.

2.6 Despite the Chairperson's repeated assurances of none interference with the matters already dealt with by Labour Courts, the National Prosecution Authority and the High Courts, questions have been put to the witnesses on the allegations of the sexual harassment case; the CGE investigative report which has been set aside; the Lavery Modise mediation report which has also been reviewed and set aside; declared to be null and void and of no effect. The conduct of the inquiry is highly irregular and falls to be set aside by the High Courts.

2.7 The Chairperson is clearly the evidence leader in this inquiry (the prosecutor) and will be the judge at the end of the inquiry.

2.8 Witnesses were given a free reign to give their evidence, and their evidence was never tested by way of allowing cross examination of these witnesses. This I submit is highly unfair and has allowed a lot of wrong and uncontested information to influence a wrong narrative, on the basis of which the portfolio committee will make a finding.

2.9 This biasness is further demonstrated by the manner that the Chairperson unfairly treated those witnesses that appeared not to side with his narrative against me. Adv. Eric Nemukula, the University of Venda's Acting Director for Legal Services who was experiencing technical difficulties with his online presentation was berated and ridiculed, and the chairperson ultimately instructed him not to proceed with his responses. In contrast, Manenzhe, one of my accusers, who had identical challenges with connectivity and moving around his house was treated with kid gloves, and even offered resources by the portfolio committee to ensure that he effectively presents during the inquiry. He was called to testify the following day despite experiencing the same challenges as Adv Nemukula. Mr. Modiba on

making certain observations including the fact that I was strongly active in fund raising activities was not believe and requested to provide evidence. When others like Tshitereke consistently lied, the Chairperson did not request for similar evidence to be provided. I have been advised, which advise I accept, that the above submissions are valid grounds for the review.

I now proceed to deal with the allegations against me. Failure to answer or deal with each and every allegation raised against me should not be construed as an admission. In actual fact, any allegation not dealt with herein should be deemed to be denied.

3. ALLEGATIONS OF A CONSENSUAL SEXUAL RELATIONSHIP/SEXUAL HARASSMENT /SEXUAL ASSAULT

- 3.1 The witnesses who have testified earlier herein, like the CGE officials, Mr. Modise, Tshitereke were allowed to testify about the issue of sexual harassment, an issue which has already been dealt with by the Courts and the NPA. It is surprising that I am not called to respond to the same. I can only assume that the reason I am not called to rebut such testimonies is because this inquiry intends as it undertook not to interfere with the findings of the courts. It is worth repeating that this matter was fully dealt with by the University of Venda disciplinary hearing; CCMA; Labour Court: Johannesburg and the Labour Appeal Court: Johannesburg. Both Phendla and myself were afforded an opportunity to give evidence and were cross examined at length. Phendla was legally represented by a Senior Advocate or a Senior Counsel throughout the trial at the Labour Court. The CGE was present throughout the Labour Court trial with a watch brief.
- 3.2 Irrefutable documentary evidence has been presented to this inquiry confirming that Prof. Phendla was procedurally and substantively dismissed on the grounds

of corruption, and not on the grounds of sex as she alleged. Please refer to the following documents:

- 3.2.1 Deloitte forensic report of September 2010 titled: “*Forensic investigation into the appointment of Clean Shop*” which recommended disciplinary action against Phendla for corruption-related misdemeanors (**Appendix 1**).
- 3.2.2 Report on the outcome of Phendla’s disciplinary hearing and subsequent sanction of dismissal for corruption dated 31 October 2011 (**Appendix 2**).
- 3.2.3 A *nolle prosequi* from the National Prosecuting Authority dated 10th May 2012, dismissing Phendla’s false allegations against me of sexual assault (**Appendix 3**).
- 3.2.4 That Phendla’s appeal against the sanction of summary dismissal on the account of corruption was rejected by the University Council .
- 3.2.5 Court order dated 30th May 2016 excising substantial sections of the CGE report that had un-procedurally and against its own rules and procedures produced a report which was successfully challenged by UNIVEN in a court of law (**Appendix 4 and Appendix 5**).
- 3.2.6 Council statement of 11th July 2016 (**Appendix 6**).
- 3.2.7 Court order, dated 13th February 2017, reviewing and setting aside Mr. Lavery Modise’s mediation report and declaring it null and void and of no consequence(**Appendix 7**).
- 3.2.8 Judgement of the Labour court dated 12th October 2017 which confirmed that her dismissal was procedurally and substantively fair and not on the grounds of sex (**Appendix 8**).
- 3.2.9 The Labour Appeal Court judgement dated 19th February 2018 which rejected Phendla’s leave to appeal because it had no reasonable prospects of success and there was no compelling reason why it should be granted, and in effect confirming the decision of the Labour court (**Appendix 9**).

3.3 A wrong and misleading interpretation has been attached to the comments and/or findings and/or reasoning of Judge GN Moshwana of the Labour Court, Johannesburg in his judgment of 12 October 2017. The misinterpretation is attached to paragraph 59 of the judgement which reads as follows:

*“[59]...It **may** well be so that the applicant and Professor Mbatlana had a consensual relationship, which like many other relationships hit the rough patch....”*

I submit with respect that the interpretation which the Chairperson’s attached to the above extract is wrong in law and misleading. He consistently reads his narrative into the comments or reasoning of the judge because that is what he wants to hear. The use of the word “*may*” is not definitive, it only shows that there could have been or there could not have been a relationship. The word may only expresses a possibility, but like I said is not definitive, certain nor without doubt. Therefore, I submit that the chairperson should seek proper legal advice and should stop reading his narrative into the clear and unambiguous judgement of Judge Moshwana.

3.4 Judge Moshwana never came to a conclusion with certainty and without doubt that I was in a consensual relationship with Phendla.

4. ALLEGATION: DURING PROFESSOR MBATI’S TENURE AT UNIVEN, SIX INFRASTRUCTURE DEVELOPMENT PROJECTS WITH THE ORIGINAL COST OF R283.100 MILLION WERE FOUND ABANDONED IN JULY 2017 VISIT BY THE DHET. THE REVISED PROJECT COST FOR FIVE OF THE SIX ABANDONED PROJECTS AS REPORTED IN THE UNIVEN’S MAY 2019 ANNUAL REPORT IS R369.634 MILLION

4.1 It is important to mention that Univen had a Council approved supply chain management policy on the basis of which contractors were appointed for all infrastructure projects. The Supply Chain management policy was revised from time to time as the need arose for it to comply with the provision of

section 217 of the Constitution of the Republic of South Africa and other National procurement laws. The Bid Adjudication Committee (Tender Committee) was a committee of Council chaired by an external Council member. The recommendations of the BAC to appoint contractors, project managers or professionals were always submitted to Council for approval.

- 4.2 The Executive Management's oversight for Infrastructure projects was placed in the office of the Deputy Vice Chancellor Operations. For good governance practices, the University established an Infrastructure Project Board, chaired by an external person. During my tenure Prof. Sibara, a retired bureaucrat and former Deputy Vice Chancellor of the University of Limpopo chaired this project board. The reports of infrastructure projects from this committee were always submitted to the following committees for further oversight: (a) *Finance Committee of Council*; (b) *Audit Committee of Council* and (c) *the full Council meeting*.
- 4.3 Evidence that the Council continued to provide oversight on the major infrastructure projects can be seen from the minutes of the Joint Bid Adjudication and Finance Committee meeting held on 7th July 2017 (**Appendix 10**) and 11 August 2017 (**Appendix 11**).
- 4.4 On 2nd November 2015, the UNIVEN external auditors Sizwe Ntsaluba Gobodo at the request of the University Council produced a report titled "Projects review report to those charged with governance at the University of Venda" (**Appendix 12**).
- 4.5 Flowing from the SNG report "*Projects review report to those charged with governance*", the University Council instituted a Forensic Investigation to be carried out in 10 projects of the 14 projects, which included the so called "Abandoned Projects". The forensic report by NEXIA SAB&T dated 29

August 2016 addressed to the Chair of Council Mr. Serobi Maja is presented as **Appendix 13**.

The recommendations of the forensic report included among others:

4.5.1 Review of the Supply Chain Management Policy;

4.5.2 Imposing penalties to contractors who had abandoned projects; and

4.5.3 Discipline University Officials who carried out variation orders without delegated authority from Council

4.6 The University of Venda Council on 9th September 2016 appointed a Task Team to study the SAB&T Forensic Report and to advise Council. At its meeting of 7th April 2017 EXCO received a report from the Council Task Team on the Forensic Audit (**Appendix 14**). Paragraph 7 of the minutes of EXCO captures their report which reads:

(a) At its meeting of 09 September 2016, EXCO had appointed a Task Team to look at the forensic audit report and submit clear recommendations at its subsequent meeting of 18 November 2016.

(b) The Task Team had met on 13 February 2017 at the Limpopo Gambling Board, Polokwane.

(c) A follow up meeting had been held on 22 March 2017 on campus when Management presented its responses and portfolio of evidence to the recommendations and/or resolutions that the Task Team had made.

(d) The Task Team had accepted Management responses, and expressed that they had a better understanding following the inspection in loco tour.

(e) The inspection in loco had revealed that further variations relating to items that had not been envisaged in the original plan might arise, in order to ensure that most of the facilities cited in the Forensic Audit Report would be in good working order.

*(f) With regard to the recommendation to institute disciplinary action against University officials named in the report, Exco recommended to Council that **disciplinary action should be instituted against the named officials as they were no longer in the employ of the University.***

4.7 On 15th September 2016, the University released a communique addressed to the Office of Mr. Cyril Ramaphosa, then Deputy President of the Republic of South Africa, whose office had received a plethora of demands to investigate alleged corruption on infrastructure projects at UNIVEN raised by Prof. Olukoga who had been dismissed from the University for serious misconduct. The dismissal of Prof. Thidziambi Phendla and other matters raised by the Higher Education Transformation Network (HETN) had also been submitted to the office of the Deputy President (**Appendix 15**).

4.8 As Vice Chancellor I kept the Council of the University of Venda updated on the matter of abandoned projects and other matters arising from this matter. At the Executive Committee of Council meeting of 8th September 2017 (see paragraph 3.2 of the minutes in **Appendix 16**) which reads:-

“a)

b) *The University had hosted a delegation from the Department of Higher Education and Training (DHET) led by Dr. D. Parker on 24 and 25 August 2017. Broad discussions covered financial sustainability, human resources, infrastructure and efficiency grants, academic enterprise and capacity development, governance and statutory structures, student perspectives on institutional development. In attendance during the different sessions were members of senior and executive management, the Chairperson of the Institutional Forum (IF), Mr. K.C. Razwiedani, and the Student Representative Council (SRC). The delegation also went on a campus tour to see completed and incomplete and/or abandoned infrastructure projects.*

4.9 On 7th of August 2017 I wrote to the Minister of Higher Education and Training detailing the challenges we had experienced with contractors abandoning large infrastructure projects, and the corrective action we as a university had taken (**Appendix 17**).

4.10 Further evidence of the oversight role of the Council in the management of the abandoned projects are:

4.10.1 At its meeting held on 07 July 2017, the Joint Bid Adjudication and Finance Committees (see **Appendix 18**) took the following decisions:

4.10.1.1 Recovery Plan and Project Financials

The Joint Bid Adjudication and Finance Committees approved in principle the recovery plan of the following projects subject to the presentation of the funding options available within and outside the University coffers and verification of the R54 million budget:

- a) New Male Residences*
- b) New Female Residences*
- c) Education Phase 2*
- d) Agricultural Renewal Project*

4.10.1.2 Special meetings

The Joint Bid Adjudication and Finance Committees resolved that urgent meetings should be arranged to deal with the following matters in their order:

4.10.1.2.1 The joint meeting of the Bid Adjudication and Finance Committees with the professional team, to take place in the evening, which will deal with the Bill of Quantities of the four incomplete projects

4.10.1.2.2 The inspection in loco of the four projects the following morning

4.10.1.2.3 *The meeting of the Joint Bid Adjudication and Finance Committees soon after the inspection in loco to deal with:*

- a) Funding options for the four incomplete projects*
- b) Comprehensive report on infrastructure projects*

4.10.2 At a joint meeting held on 11 August 2017, the Bid Adjudication and Finance Committees approved *the release of the remaining balance of R139 million from the University Council controlled funds to fund abandoned projects* (See **Appendix 19**, minutes of the joint meeting of the Bid Adjudication and Finance Committees of Council)

4.11 Conclusion

- 4.11.1 Neither the investigative report by SNG nor the SAB&T forensic report found any wrong doing on my part as Vice Chancellor and Principal.
- 4.11.2 The University had put in place policies, guidelines and mechanisms to procure contractors and to manage them.
- 4.11.3 For reasons pointed in the SNG and SAB&T audit reports, contractors failed to deliver on their agreed performance in delivering projects on budget and on time, leading to abandonment of projects.
- 4.11.4 As Vice Chancellor I kept the office of the Minister of Higher Education and Training informed on the matter of projects abandoned by Contractors.
- 4.11.5 The University management and Council had already identified the serious matter of abandoned projects by contractors, and had put in place mechanisms to mitigate the risks before the visit by DHET officials.

- 4.11.6 During a scheduled engagement with DHET officials on progress on utilization of infrastructure funds and efficiency grants, management disclosed to the officials the challenge we were experiencing with contractors abandoning projects at UNIVEN.
- 4.11.7 The narrative from the DG therefore that it's only when DHET officials visited the University in July 2017 that they found abandoned projects is flawed and incorrect.
- 4.11.8 Finally, the University of Venda has recently received a report from Lt. Col RD Lesufi of the Serious Corruption Investigation Directorate for Priority Crime Investigation in Polokwane signed and dated 17th Feb 2021. The report is titled "Polokwane Enquiry 04/09/2016, corruption/PFMA in connection with the investigation related to University of Venda" (**Appendix 20**).
- a. Paragraph 1 of the report reads: During March 2016, subpoena in terms of section 205 served to the Acting Vice Chancellor Dr. Robert Luke Martin to dispatch information with regard to the following tenders for further investigations:
 - b. In total 17 tenders were evaluated.
 - c. Para 2 reads: Based on the findings of the said forensic reports received from KPMG, Sizwe Ntsaluba Gobodo and affidavit deposed by Acting Vice Chancellor, there is insufficient evidence to proceed with the investigation
 - d. Para 3 reads: There is no reasonable grounds to believe that the offences as mentioned above were committed by officials of the University of Venda and or private individuals (service providers) and its directors where the payments were agreed upon and made, where the tender processes were not followed. **Therefore the matter is closed**

5. ALLEGATION: IN A LETTER TO THE COMMITTEE, THE DHET REPORTED THE FOLLOWING: “THE DEPARTMENT BECAME AWARE THAT IN 2017 UNIVEN, THROUGH ITS INVESTMENT COMPANY UNIVEN INNOVATIVE GROWTH COMPANY (UIGC), ENTERED INTO AN AGREEMENT TO DEVELOP STUDENT HOUSING FOR 5 000 BEDS, STAFF HOUSING FOR 200 STAFF, A HOTEL AND ROADS AND RELATED INFRASTRUCTURE. THE TOTAL ESTIMATED COST OF ITS INTENDED DEVELOPMENTS WAS R2.3 BILLION. UNIVEN DID NOT INFORM THE DEPARTMENT OF ITS INTENDED DEVELOPMENTS OR AGREEMENTS WITH MANDATES PROVIDED TO THE UIGC. UNIVEN DID NOT ACQUIRE MINISTERIAL APPROVAL AND THE UIGC HAD FOLLOWED NO PROPER PROCUREMENT PROCESS FOR THIS PROJECT; AND ON 15 APRIL 2018, THE DIRECTOR-GENERAL AND BRANCH: UNIVERSITY EDUCATION CALLED FOR A MEETING WITH THE MANAGEMENT OF UNIVEN TO DISCUSS THE STUDENT HOUSING PROJECT AND RAISE THEIR CONCERNS ABOUT THE PROCESS FOLLOWED BY THE UIGC AND UNIVEN. THE DEPARTMENT FOUND THAT ANDANY INVESTMENTS (PTY) LTD IS THE HOLDING COMPANY OF WHICH BLACK CAPITAL IS A SUBSIDIARY. FROM A PRESENTATION TO THE NORTH WEST UNIVERSITY, IT SHOWED THAT TWO OF THE DIRECTORS OF BLACK CAPITAL WERE PROF. P MBATI AND PROF. P NEVHUTALU, THE FORMER VICE-CHANCELLOR OF CPUT. UIGC ENTERED INTO AN AGREEMENT WITH ANDANY INVESTMENTS (PTY) LTD AND GLAD AFRICA INVESTMENTS (PTY) LTD TO CREATE AN ENTITY CALLED AUG DEVELOPERS. UIGC OWNED 40% IN AUG DEVELOPERS AS IT PROVIDED UNIVERSITY LAND FOR THE PROJECT, ANDANY INVESTMENTS OWNED 40% AND GLAD AFRICA 20%. THE SHAREHOLDERS AGREED THAT THE INITIAL FUNDING WOULD BE PROVIDED BY THE FUNDER TO BE SOURCED BY HILLCITY ADVISORY (PTY) LTD. THE FUNDER SOURCED BY HILLCITY WAS THE PUBLIC INVESTMENT CORPORATION.

5.1 At the end of my term as Vice Chancellor at the University of Venda in January 2018, I was approached by Mr. Lindelani Cibi to consider working for one of his companies

which was meant to target the building of infrastructure projects at institutions of higher learning. According to Mr. Cibi, in view of the extensive experience I had with large infrastructure projects, this would be of value to his company. Initially I forwarded my CV to him as he wanted to develop an advertisement brochure. However, after due consideration of this offer, and the fact that I had been offered a position as Deputy Pro Vice Chancellor Academic in Botswana, I declined the offer.

5.2 It should have been a simple task for those who allege that I was a Director in any of Mr. Cibi's companies including Black Capitol to have conducted a company search. Such a search would have revealed that this narrative was false.

5.3 The awarding of a contract to Mr. Cibi for infrastructure projects was approved by the Board of the Univen Income Generating Company (UIGC) (Pty) and I was never a part of the Board. UIGC is chaired by an external independent non-Council individual.

5.4 The University of Venda Council was in concurrence with the UIGC Board to allow Andany Pty. to proceed with the infrastructure development.

5.5 The matter of UIGC seeking approval from the Department was not within my purview as Vice Chancellor but rather for the CEO of UIGC and the Chair of the Board of the UIGC.

5.6 In this regard, please find correspondence from the UIGC's CEO; Dr. John Mudau in which he puts in clear and correct perspective the rather unfortunate allegations against me by the DHET DG (**Appendix 21**). Dr. Mudau, the CEO of UIGC(Pty)Ltd has volunteered to testify at this inquiry should this be required of him.

5.7 Mr. Lindelani Cibi has responded to the allegations from the Portfolio Committee and from the DG in as far as his companies are concerned. In this regard, please find attached the following:

5.7.1 *Mr. Cibi's letter (**Appendix 22**) in which he mentions his meetings with the DG in which they discuss the same projects that the DG now presents to the PC*

5.7.2 *CIPC Person Disclosures, which shows which companies I serve/served as a Director, further confirming I was never a Director of Andany Pty (**Appendix 23**).*

5.7.3 *Council decision of 21 April 2017 granting UIGC approval to utilize UNIVEN land for new infrastructure projects (**Appendix 24**)*

5.7.4 *Letter of intent. Project: Build and operate privately funded new student residences by UIGC and occupancy guarantee by UNIVEN (Appendix 25)*

5.7.5 *Letter to the Minister of Higher Education and Training by Andany Pty on the matter of infrastructure development at UNIVEN (Appendix 26)*

5.8 Concluding remarks

5.8.1 It is my submission that the allegation by the DG that I am or was a Director of Andany Pty and/or its subsidiary companies is not true. The DG even failed to submit documentary proof to that effect, something which should have put clarity to the matter.

5.8.2 The allegations about the UIGC not informing DHET about these infrastructure projects is adequately explained by the CEO of UIGC.

5.8.3 Evidence of engagement between Andany Pty and the DG is given in Mr. Cibi's submission.

5.8.4 Evidence of the Minister being informed of the projects to be undertaken by Andany Pty at UNIVEN is provided by Cibi

5.8.5 For the period that I adopted zero-tolerance against corruption at UNIVEN, I became a target of smear campaigns perpetuated largely by individuals that had been dismissed from the University. I endured death threats, armed burglaries at my Pretoria home where the intention was to kill me, harassment of my family through telephone threats to my wife and threatening emails threats to my wife. On several occasions I was trailed by unknown vehicles and my official university driver Mr. Takalani Mudologi had to employ tactics he had acquired in defensive driving to evade them. Additionally, theft of my official vehicle, attempted theft and vandalizing of my personal vehicle; threatening sms's sent to my personal phone number and a whole lot more. All these threats and heightened harassment to myself and to my family were reported to the police. Honorable Chair, I pray that this portfolio committee institutes another inquiry to determine the dark forces that have continued to intimidate and perpetuate fear in my life, and the reasons thereof.

6. ALLEGATION: THAT I SOUGHT TO REVIEW THE REPORT OF THE COMMISSION ON GENDER EQUALITY (CGE) IN THE SOUTH GAUTENG HIGH COURT, BUT FAILED TO SET ASIDE THE RECOMMENDATIONS OF THE REPORT, BUT ONLY SUCCEEDED IN GAGGING CERTAIN PORTIONS OF THE REPORT.

6.1 At the directive of the University of Venda Council, the CGE report was challenged in court.

6.2.1 The Chairperson of Council in his letter to Council dated 30 January 2015 titled "Investigative Report: Prof. Phendla//University of Venda" states as follows (see letter by Chair of Council **Appendix 27**)

1. I refer you to the above and advise that I am aware of the letter and annexures thereto sent by Professor Phendla addressed to Prof. Nesamvhuni and dated 29 January 2015
2. ..
3. On 21 January 2015, a letter was addressed by the University's legal representatives to the CGE wherein it was pointed out, *inter alia*, that the university is concerned about the legality of the report and requires clarification of aspects thereof.
4. ..
 - 4.1 ,,
 - 4.2 There are relevant documents that are in the CGE's possession, which documents have not been provided to the university. This includes *inter alia*, the documents submitted by the complainant for the investigation including the record of all text messages and telephone calls referred to in the investigative report. The University requested that these be made available ;
 - 4.2
 - 4.3
 - 4.4 Whether there is any formal internal remedy available to address the University's concerns in connection with the report, and

5. The investigative report appears to be very one sided and the conclusions contained therein have been reached without considering all the evidence relating to this matter. Furthermore, the CGE pronounced on issues it has no authority to pronounce or make findings on
6. As a result of the above, and should the CGE refuse to revisit its investigation, the University will take all necessary steps to ensure that the investigative report is subjected to judicial review.
7. Subsequently, following an agreement between the parties, the Court ordered CGE to excise substantial sections of its report (see court order **Appendix 4**).
8. The revised CGE report as per the court order is attached (**Appendix 5**).
9. The view that I failed to set aside the report but only succeed in only gagging certain portion of the report is incorrect and misleading for two reasons:
 - i. There were three Applicants who sought to review the CGE report; and
 - ii. The review process was successful because a significant portion of the report was indeed set aside as can be gleamed from the court order and the revised CGE report.

7. ALLEGATION: I ATTEMPTED TO IMPROPERLY INFLUENCE MR. LAVERY MODISE, AS CONTAINED IN PARAGRAPH 33.3 OF HIS AFFIDAVIT IN WHICH MODISE ALLEGES “IT IS NOTEWORTHY TO STATE THAT THE APPLICANT IMPROPERLY SOUGHT TO INFLUENCE ME TO AMEND MY REPORT”

7.1 I am advised, which advise I accept, that following the setting aside of the Mediation reports by the High Court, further entertaining of this issue is illegal, unconstitutional and this committee is acting *ultra vires* as this committee will be interfering with the Judiciary.

- 7.2 Be that as it may, I wish to state that when I finally had access to Lavery Modise's mediation report from the University Council weeks after the special Council meeting, paragraph 8 of his report stated that I had admitted to him to have had a consensual sexual relationship with Phendla. Because Modise's assertion was incorrect, I sent him an email requesting that he does one of the two: **(a)** excise this paragraph from his report or **(b)**, he should rather say that this was his opinion (**Appendix 28**).
- 7.3 It must be pointed out that as a matter of standard practice, Modise always took notes and also recorded with a tape recorder our discussions. It was on this basis that I asked for his notes and or recordings to demonstrate that his assertion was wrong.
- 7.4 It was therefore puzzling, and according to me, totally out of the norm of good practice, when Modise could not provide either his notes or the voice recording to confirm or deny what I had said.
- 7.5 It is shocking and reflects poorly on Modise to thereafter refer to my request to correct his report to reflect the truthful facts to mean that I improperly sought to influence him to amend his report.
- 7.6 When Modise declined to amend his report to reflect the truth, and on the advise of my legal counsel, I successfully took his report to court for review.
- 7.7 Modise's mediation reports which the portfolio committee constantly refers to in these proceedings, **was reviewed and set aside; declared to be null and void and of no consequence by the High Court** (see court order, **Appendix 7**). Modise was duly served with my review Court papers and on his own volition chose not to oppose/defend his report. For this fact, this inquiry cannot accept any piece of testimony of Modise. This inquiry cannot even accept that I improperly tried to influence him and his testimony that I admitted to him that I had a consensual sexual relationship with Phendla. For this inquiry to accept such testimonies on the face of a clear Court order to the opposite, I am advised such a conduct amounts to interference by the parliamentary committee on the Judiciary.
- 7.8 In my view it was an exercise in futility, frivolous and malicious to invite Modise into the inquiry considering that his mediation reports have been reviewed and set aside; and declared to be null and void and of no effect by the High Court.

7.9 I submit that it is impossible to revive this dead report and anything related to what Modise did. His opinion that I conceded to a consensual sexual relationship with Phendla cannot be accepted in these proceedings because Courts have pronounced on it.

7.10 This Committee is bound by the findings of the Courts and as an organ of state it ought to respect and comply with Court orders. This committee does not have any power nor authority to sit and review or appeal proper Court processes and Court orders.

7.11 The way in which the mediation processes was conducted and the disclosure of such information by Modise to third parties was a flagrant disregard of mediation principles. I was advised that for such a conduct I could report Modise to the Law Society of the Northern Provinces as his conduct was unethical and unprofessional. I however decided against it since he realized his own mistakes and could not defend or oppose my review application at the Venda High Court.

7.12 Lastly, I wish to state that the Venda High court had jurisdiction to entertain the review case. It was therefore not compulsory for me to take the matter to the South Gauteng High Court, as the chairperson seemed to question my action of reviewing the case at the Venda High Court.

8. ALLEGATION: THERE IS A PENDING FRAUD CASE AGAINST ME AT ONE OF THE SOUTH AFRICAN HIGH COURTS AS ALLEGED BY HIGHER EDUCATION TRANSFORMATION NETWORK.

8.1 I don't have a pending case of fraud against me in my individual capacity as alleged by HETN. The tendency by this inquiry has always been to accept wild and unsubstantiated allegations from witnesses and it never demands proof from the one who makes the allegations. I am advised that considering the fact that I am not allowed to test the evidence of the Chairperson's witnesses by way of cross examination, the Chairperson ought not to randomly accept evidence which is not unsubstantiated.

8.2 I consulted with my legal counsel who confirmed that no such court matter was ever brought to our attention by HETN. In fact, the HETN has brought about two court cases against me in my capacity as the VC of Univen and has lost all such cases. The HETN currently owes the University of Venda legal costs and have been hiding from the Sheriff who is supposed to serve them with documents.

8.3 Dr. Legoabe of HETN testified on 17th February 2021 in this inquiry that a whistleblower had reported to the police and a case of fraud had been opened against me. This committee ought to have asked him to provide the SAPS case number, investigating officer's name, the name of the Police station where these charges have been laid against me and finally the current state of such cases. This will enable the enquiry to know of the existence of such cases.

8.4 I submit that the inquiry fails to ask such questions because they are just out on a smear campaign against me, as evidenced by the Chairperson's media allegations on Radio 702 around September 2020.

8.5 Honorable Chair, the University of Venda has recently received a report from Lt. Col RD Lesufi of the Serious Corruption Investigation Directorate for Priority Crime Investigation in Polokwane signed on 17th Feb 2021. The report is titled "Polokwane Enquiry 04/09/2016, corruption/PFMA in connection with the investigation related to University of Venda (**Appendix 20**).

- Paragraph 1 of the report reads: "*During March 2016, subpoena in terms of section 205 served to the Acting Vice Chancellor Dr. Robert Luke Martin to dispatch information with regard to the following tenders for further investigations*":

- In total 17 tenders were evaluated.

- Para 3 reads: "*There is no reasonable grounds to believe that the offences as mentioned above were committed by officials of the University of Venda and or private individuals (service providers) and its directors where the payments were agreed upon and made, where the tender processes were not followed. Therefore the matter is closed*".

8.6 Honorable Chairperson, it has always been my submission that corruption is evil, and those who fight corruption must know that they will be hounded and vilified for the rest of their lives. I am a living example of somebody who has been harassed, intimidated and threatened with death for tackling corruption head-on whilst the Vice Chancellor at the University of Venda. The scars I bear today are a reminder that indeed corruption is evil.

9. IN DR. LEGOABE’S TESTIMONY, HE ASSERTS THAT NEHAWU’S NAME MUST NOT BE USED AS THE CATALYST THAT LED TO THE FORENSIC INVESTIGATION THAT LED TO THE DISMISSAL OF PROF. PHENDLA

9.1 I must first start by applauding the leadership of the UNIVEN branch of Nehawu and the UNIVEN SRC for their strong abhorrence of corruption and malfeasance that had taken deep roots at the institution.

9.2 In my first meeting with the Nehawu executive soon after assuming my position as VC in 2008, the Nehawu leadership was deeply concerned how the university had been “hijacked” by a few powerful individuals, who worked in cahoots with some external individuals to bleed the university resources through corrupt and irregular tender practices. This can be confirmed by talking to the two Chairpersons that I worked with – Mr. Muloiwa and Mr. Mutoti, and Mrs. Maluleke a member of the Executive of the Joint Structures.

9.3 UNIVEN was poorly resourced with old dilapidated infrastructure when I joined in 2008. Some even referred to it as a glorified high School.

9.4 The majority of the University community, particularly labour and the SRC, pleaded with me to tackle corruption head-on and ensure we grow the institution.

9.5 I heeded that call because corruption is a cancer in our societies that must not be tolerated and must be vigorously shunned and defeated every time it rears its ugly head. I am sure Honorable Chair you agree with me that corruption is the leading contributor to the ills in our society and the main reason for the collapse of many world economies. We have witnessed the devastating impact corruption continues to have

on the lives of ordinary South Africans. I am sure that you further agree that perpetrators must be held to account.

9.6 **Appendix 29** is the MoU signed on 14 April 2010 between Univen Management and Nehawu. Nehawu were represented by Mr. Lulamile Sotaka, the National 1st Deputy President Nehawu.

9.7 Paragraph 2 titled “**Allegations of corruption**” reads as follows:

.....2.1 “The parties agree that an independent forensic auditor agreeable between the parties will be appointed to probe all allegations of corruption within two weeks from the date of signing the agreement”

.....2.2 “The union will provide evidence of corruption to the forensic auditors and thereafter the necessary disciplinary steps, eg suspension will be taken by the University against those who will be implicated in terms of university rules and regulations”

.....2.3 The laws of the country and university rules and regulations will be applied to all staff members of the university without exception at all times”.

9.8 **Appendix 30 and Appendix 31** are additional desperate voices from student leadership, letters from the ANC Youth League received on 16 November 2011 requesting for a commission of inquiry on rampant corrupt activities in UNIVEN

9.9 Thereafter Deloitte was appointed to do the Forensic investigation that ultimately fingered senior Executives such as Prof. Phendla and Mr. Nemadzivhanani for disciplinary action.

9.10 It is unfortunate that Dr Legoabe has lied to this August committee that the Delotte Forensic report was rescinded. The honorable Chair should direct Dr Legoabe to provide evidence to substantiate this inaccurate claim.

9.11 Dr. Legoabe paints a fabricated and totally false picture of the Univen workplace environment that is unrecognizable by those of us who lived and worked at UNIVEN.

9.12 The portfolio committee must be cautious that the chorus from the “coalition of the wounded”, a few individuals who were dismissed from UNIVEN following due processes for malfeasance, serious transgressions and acts of criminality, whom the

committee has selected as their witnesses, are not given a platform and to pretend to represent the views of the majority of staff and students of the University of Venda. The vast majority of the Univen stakeholders are proud of the immense work that my management, the University Council and the office of the Minister of Higher Education and Training did to transform UNIVEN into the great university it is today.

9.13 During my tenure as VC, UNIVEN was ranked at the bottom of all the South African Universities. By 2017 UNIVEN had moved to number 14 (middle of the park) in ranking. In 2020, the new and current UNIVEN Vice Chancellor published how proud he was that UNIVEN had been ranked among the top 100 Universities in the world (**Appendix 37**).

9.14 It would have been impossible to achieve these accolades in 2020 if during my tenure we had not laid a strong foundation with a focus on quality, financial sustainability and the academic enterprise of the University. This inquiry must therefore reject the narrative of the “coalition of the wounded - who the committee has called as its witnesses herein’ who describe my leadership as ruthless, incompetent, reckless, disastrous, etc

9.15 A detailed look at my CV (**Appendix 32**) will confirm that I have the requisite qualifications, skills and experience to be a Vice Chancellor. *I wish to highlight a few areas in my CV to debunk the myth that I am not qualified:*

Professional and Academic Qualifications

1997: Advanced studies in protozoan diseases. Research Centre for Protozoan Molecular Immunology, Obihiro University of Agriculture and Veterinary Medicine, Japan, 5th November 1996 - 7th September 1997

1994: Doctor of Philosophy (Parasitology). Kenyatta University

Some Board memberships:

2018 – present: Chairperson of the Ruforum TAGDev Steering Committee

2016 – 2018: Member of the Council of the University of Swaziland

2010 – 2017: Chairperson of the Limpopo Province Premier’s Employment Growth and Development Advisory Council – Skills for the Economy Technical Working Group.

2014 – 2017: Chair of the HESA Higher Education Leadership and Management programme.

2014 – 2017: Executive Board member of the Association of African Universities

2014 – 2017: Executive Board member of the Regional Universities Forum for Capacity Building in Agriculture

Work Experience in Senior and Executive Management

- I. Vice Chancellor. Sefako Makgatho Health Sciences University. June 2020 – present
- II. Deputy Pro Vice Chancellor Academics and Quality. Botho University, Botswana. February 2018 – May 2020
- III. Vice Chancellor and Principal – University of Venda, South Africa. February 2008 – January 2018 – 2018 (see highlights below during my tenure as VC at UNIVEN)

High lights (2008 – 2018)

General Administration:

- Developed and successfully implemented the following strategic plans: 2009 – 2013, 2012 – 2016 and finally the 2016 – 2020 plan.
- Conceptualized and implemented accredited modules on “ Higher Education Leadership Management” for members of Senior and Executive Management and, middle management and senior academics
- Successful Fund Raising initiatives, for example:
 - o R22 mil from Construction CETA towards community training centre, development of new programme in construction technology, and technology laboratory

- o R64 mil towards SAICA accredited BCom Accounting programme for the production of Chartered Accountants at Univen
- Initiated the University Town concept for Thohoyandou
- Clean unqualified audits except for the 2016 academic year
- Growth in reserves from R 30 mil to R 700 mil
- Review of the Deed of the Foundation
- Introduction of performance management
- Introduced detailed Quarterly reports “Vice Chancellor’s State of the Campus Reports”
- Strengthened an institutional culture at Univen focusing on the academic core project
- I invited *Prof. Mervyn E King* who delivered a paper on “Corporate Governance” at the University of Venda Senate Chambers on Wednesday, 24 October 2012.
- Bestowed the title ‘Vhavhenda vho Mbatl’ by King MPK Tshivhase of the Tshivhase Royal Council on 14th December 2008.
- After almost 35 years since its inception, under my stewardship, the University finally received the title deed.

Academic Division:

- Academic re-engineering from a traditional university to a comprehensive university.
- Creating special positions of academics to improve the research output of the university such as Research Professors, Adjunct Professors, visiting professors, Professor Emeriti etc
- Introduction of various Vice Chancellors awards for the following categories: Research; Teaching; Community Engagement, and, Student Excellence Awards.
- Exponential growth in research outputs from 0.12 to 0.94 per capita units
- Increase in NRF-rated researchers from one (Prof Mbatl) to 24
- Pass rates from 78% to 87%

Operations Division:

- Growth in bandwidth from 08 megabits/sec to 10Gigs/sec
- Council approved Integrated Transformation Plan
- New Infrastructure Development to the value of approximately R1.5 billion rand (e.g Life Sciences building; Lecture hall complex; Female residence; Environmental Sciences buildings; School of Agriculture; School of Education; Student Academic Administration; Campus Clinic; Research Conference Hall; Academic Community Training Centre; Office Complex etc)
- Grew the property, plant and equipment from R500 mil to R 2 billion
- Enhanced teaching and learning facilities in the Unit for Students with Disabilities

IV. Group Executive – Livestock Business Division, Agricultural Research Council, Pretoria. July 2006 – January 2008

V. Campus Principal – University of the Free State, QwaQwa Campus, Office of the Vice Chancellor. January 2003 – June 2006

VI. Acting Executive Director: Academic, University of the North, QwaQwa Campus. January 2002 – December 2002

VII. Acting Director, Biomedical Sciences Research Centre (BSRC) – Kenya Medical Research Institute (KEMRI), Nairobi. January – June 1998

Responsible for the administrative coordination and management of the research activities of the following research laboratories: (i) Malaria (ii) Schistosomiasis (iii) Leishmania (iv) Immunology laboratory (mandated to carry out services such as HLA tissue typing for organ transplants & paternity tests).

Publications

63 publications in peer reviewed accredited journals. I have supervised of 50 post graduate students at honors, masters and doctoral levels, and over 98% are South African students.

Further as you would know Honorable Chair, to come to a fair and just conclusion as to whether I was a good or bad executive as alleged by the ‘coalition of the wounded”, one would need to interview an acceptable sample size of UNIVEN Senior and Executive managers, Council, SRC and labour. The response you get would be complemented with the outcomes of a psychometric test that measure various variables of individual behaviors and competencies. The University of Venda and other places I have worked can provide to you my confidential reports to verify the veracity of these allegations from the coalition of the wounded who are a bitter and biased sample group.

10. ALLEGATIONS ON FOREIGN STUDENTS vs LOCAL STUDENTS

10.1 The allegations by Dr. Legoabe in this respect are denied in its entirety. Dr. Legoabe should produce evidence that the number of international students at UNIVEN were not in line with SADC protocol as it relates to the number of international students in tertiary institutions, which all public higher educations use as the benchmark. Dr. Legoabe should further demonstrate the demographics and enrolments of students at UNIVEN deviated significantly from other South African Universities.

10.2 Mr. Nematzivhanani, the Registrar of UNIVEN at the time, has testified in this inquiry of the MoU that existed between UNIVEN and the government of Zimbabwe, and that indeed he and Mrs. Shirley Mabusela and Mr. Shumani Ravhuazwo who were Chair and Deputy Chair of Council at the time went to visit the President of Zimbabwe the late Hon President Mugabe. Other MoUs or agreements were signed with governments of Botswana and Swaziland and students coming to UNIVEN, and other South African Universities, were enrolled on the basis of inter-government agreements. All the above agreements were concluded before I joined UNIVEN as Vice Chancellor.

10.3 To misguide this inquiry that somehow Mbatia had a deliberate agenda to displace local South African Students with foreign students is a cheap shot, simply because I am a naturalized South African citizen of Kenyan descent .

- 10.4 On the matter of a presumed increase of foreign staff under my watch, Dr Legoabe should back this information with evidence and provide statistics with the profile of staff from the period 2006 – 2018.
- 10.5 On the complaints raised by students on the challenges they experienced as far as the work-study programme was concerned, the DVC Academic Prof. Jan Crafford regularly updated management and the University Council on the progress made in the implementation of the recommendations contained in the Balintulo report. The work study programme was a university initiative that was started before I joined UNIVEN and was never under the direct supervision of the Vice Chancellor but rather of the Registrar Mr. Nemadzivhanani.
- 10.6 The allegation that accommodation preference was given to foreign students over South African students is very weak at best, and only seeks to discredit a University that was genuinely grappling with accommodation challenges for ALL its students, at undergraduate and post graduate levels. This challenge remains true in the South African higher education sector. In any case, there was clear policy that guided the allocation of student accommodation, which policy was under the direct executive supervision of the Registrar Mr. Nemadzivhanani.

11. UNIVERSITY RECRUITMENT POLICY

- 11.1 Allegation that the recruitment policy under my tenure was in some way deliberately crafted to disadvantage South African citizens from being appointed is not only disingenuous but down right mischievous. Mr. Manenzhe gushed before this inquiry how he developed excellent policies within the HR directorate. This inquiry should put this question back to him on the veracity of this allegation and why under his watch as Director HR citizens could have been disadvantaged over foreigners.
- 11.2 In any case, the recruitment of staff was always done in a transparent manner, with duly constituted panels and depending on the level of appointment, was Chaired by the VC, DVCs or Registrar. For senior appointments, an external

expert was always invited to be part of the panel. Labour was always represented in these interview panels. All appointments were against an approved university structure or organogram.

12. On the matter of the Balintulo report

12.1 Prof. Balintulo, Adv. Ramashia and Ms. F Ndou (Attorney of Law) conducted an in-depth investigation commissioned by the Vice Chancellor following the grievance by some students on the perceived inequities in resourcing of international students vis-à-vis South African students (see Balintulo Report **Appendix 35**)

12.2 The recommendations of the report, which were balanced, progressive and forward looking were adopted and implemented under the executive oversight of the DVC Academic Prof. Jan Crafford

12.3 The report weaves through the history of UNIVEN as an HDI, its unique challenges with regard to resourcing and infrastructure, and the explosion of growth in terms of research and post graduate studies, and the tensions these created in as far as post graduate students were concerned.

12.4 On page 6 para 3, the Balintulo report quotes the VC Prof. Mbatia: *“The solution, as articulated, lies in focusing on increasing the number of senior academics and established researchers, and simultaneously enlarging the professoriate with entry-level positions. Accordingly, these will be drawn largely from our internal efforts of “growing the next generation of academics project with UNIVEN trained Masters and Doctoral graduates. The benchmark is to achieve a 70% target of academics with PhDs by 2030 as envisioned in the National Development Plan”*

12.5 During the tenure 2008 -2017, we had an exponential growth in Masters and doctoral graduates, many of our staff getting post graduate degrees, improving their research profile and rising through the ranks of senior lecturer and the professoriate

12.6 Page 11, para 4 reads: *The 2015 enrolments of Masters and Doctoral degrees, evince the following breakdown:*

- *Headcount of 790, with 580 Masters and 210 Doctoral candidates.*

- *Of these 630 (79.75%) were South African nationals disaggregated into 481 (82.93%) Masters and 149 (70.95%) Doctoral.*

12.7 Of the total cohort of Masters and Doctoral enrolments: 108 (13.67%), i.e. 63 (10.86%) Masters and 45 (21.43%) Doctorals were from Zimbabwe.

12.8 Nigerians 26 (3.29%), 7 (3.33%) Doctoral and 19 (3.28%) Masters. I leave you honorable members to decide whether the alarmist statistics given by Dr Legoabe, Phendla's co-director in HETN, was factual or not.

12.9 Para 4, page 14 *"In light of the above, it may not be unreasonable to suggest that UNIVEN, to some extent, is a victim of her own success in attracting increased numbers of post-graduate students mainly through the Work study Programme, which has led to overstretched capacity to some degree. In large measure, there is a sense in which the conflicts that are manifesting themselves in the national versus international cleavage are a by-product and unintended consequence of this success"*

12.10 Para 4, page 20 reads *"Following receipt of a memorandum served on its Vice Chancellor and Senior Management, the Vice Chancellor appointed a committee of three persons to investigate grievances raised in the memorandum..."*

12.11 Para 6, page 20 reads *"It is commendable that instead of digging its head in the sand, or even challenging the legitimacy of the memorandum by claiming that the authors thereof did not follow a legitimate grievance procedure, the University management decided to launch an independent investigation into the substance of allegations contained in the memorandum of grievances.*

12.12 The following, excerpt from the letters of appointment of respective members of the investigating team, succinctly articulates the terms of reference and powers of the committee. It reads in part as follows:

"4. 4.1 To investigate challenges allegedly faced by South African post-graduate students in the University of Venda. The details of your scope of work are as per the attached memorandum received from the aggrieved students, and further inputs from University Management.

4.2 Once you are done with your investigation, to provide a report with recommendations to the office of the Vice Chancellor and Principal on the findings.

5. For purposes of investigation, you are permitted:
1. To direct or summon any person to appear before you at such a time and place as may be determined by yourselves.
 2. To order any person to be present at the place where such investigation is being conducted:
 1. To give evidence thereat; and
 2. To produce any document or information that may be deemed necessary for the proper disposal of the investigation.
 3. If you are concerned about any aspect of your investigation, the propriety of the investigation, any procedural steps or rights as investigators, you are urged to consult the Director Legal Services or his delegate.
6. All investigating information obtained by you, shall remain confidential and not be disclosed to any third party except to the Director Legal Services or his delegate". The said letters of appointment were signed by the Vice Chancellor and Principal, Professor Peter Mbatia.

Para 5, page 25 reads:

12.13.....“ 5. PROCESS FINDINGS

Shortly after the grievance was served on the Vice Chancellor, some members of the Post-graduate Committee submitted a disclaimer dissociating themselves from the meeting, They argued that the Post-graduate Committee had not convened it, adding that one Ms. Mulalo Nefale the Project Officer had been responsible for convening it.

It was clear during our investigation that Ms Nefale is well known to the international academic community and that she is generally spoken of in

implausible terms. The significance of this observation lies in the fact that some international senior academics cited her perceived egregious personality and unfettered influence as the basis for dismissing the legitimacy of the grievances submitted by National Post-graduate students.

Some international academics described her as a bitter student with scores to settle, claiming that she was responsible for mobilizing the majority of national students to rise against the international university community without a just cause. Many believe that her ‘campaign’ was boosted by Professor Mafunisa, a national academic who allegedly also had an axe to grind.

The Investigating Team has taken note of Ms Nefale’s alleged unflattering conduct, as well as her alleged abrasive style of handling conflict. The investigating team has also taken note of adverse views that some of the international academics hold of Professor Mafunisa”.

The matter of appointment of staff was facilitated by the Director HR, who sat in all interviews. The recommendations of the interview and who has been appointed would be presented by Mr. Manenzhe HR: Director, recommended by the DVC Operations and signed off by myself. The report would be presented to the HR Committee of Council for approval, and thereafter submitted to the University Council for ratification by the University Council.

It has to be appreciated that historically black universities, inclusive of UNIVEN, always struggled to attract South African local talent for senior and professoriate positions. When I joined UNIVEN, I instructed Mr. Manenzhe that our adverts should be carefully crafted to read UNIVEN appointments were guided by employment equity targets and that people with disabilities and women were especially encouraged to apply. The university always provided annual reports to the department of labour on our employment equity profiles, with improvement plans on targets to meet the University’s equity targets. We created an employment equity forum which was chaired by Mr. Manenzhe, Director HR. Mr.

Manenzhe provided reports to the senior management committee, Council and to the Department of Labour for monitoring.

Honorable Chair, it is instructive that HETN appears to throw aspersions on my leadership but does not provide any data to confirm that it was during my tenure there was an unfair proliferation of employment of foreign staff. Honorable Chair, as you have done with other witnesses, for example when you asked Mr. Modiba to show you evidence about his assertion that during my term I embarked on major fundraising efforts, you too should have asked Dr. Legoabe, and the other hostile witnesses, to provide evidence when they make these unsubstantiated allegations. *He who alleges must prove.*

12.14 Emeritus Professors

- 12.14.1 You heard from Mr. Manenzhe's testimony on 19th February 2021 that he was the primary developer of HR policies on various HR matters including the appointment and remuneration of staff. And he crowed before this inquiry on how he did an excellent job as Director HR for the 25 odd years he stayed in this same position. Similarly, the crafting of the policy on the appointment of emeritus professors was championed by Mr. Manenzhe as Director HR. Primarily embedded in the process was the express requirement that Deans of Schools would motivate for the appointment of Emeritus professors. Such motivation would have to enjoy the support of Senate and only thereafter would it be submitted to the HR committee of Council and to Council for approval.
- 12.14.2 Attached is an example of a motivation from Prof. Phendla who was the then Dean of Education motivating for the appointment of Prof. Bayona as an Emeritus Professor. Her email is copied to among others the DVC

Academic Prof. Xikombiso Mbhenyane and to my Personal Assistant Mrs. Esther Munano (**Appendix 36**).

12.14.3 Mr. Manenzhe as Director Human Resources championed the development of the process in the appointment of emeritus professors and he facilitated their appointments. For him to suddenly disown his own delegated responsibilities as Director HR soon after joining forces with the coalition of the wounded raises serious doubts about his credibility and intentions.

12.14.4 It is untrue that none South Africans were never appointed as Emeritus Professors. Prof. Ralushai, a distinguished scholar in the humanities was appointed an Emeritus Professor. Prof. Philip Kutame's attempt was frustrated within the School of Education where Prof. Phendla served as a Dean. Prof. Kutame complained to me that the School of Education had unreasonably blocked his application. University records would establish that Prof. Mbatlana never had a hand in the appointment of Emeritus Professors, other than ensuring that the university policies and procedures were adhered to as was required of him as Vice Chancellor and Principal.

13 ALLEGATIONS OF CORRUPTION IN THE APPOINTMENT OF CORNERSTONE AND PROCUREMENT OF MICROSOFT.

Procurement of goods and services were done according to the University supply chain management processes. Neither the internal audit, external audit or the University legal department flagged impropriety in the appointment of Cornerstone. If this had been the case, those implicated would have been required to account.

14. **Forgery and corruption laid against Prof. Mbatl; there has been no finalization; and that these matters were transferred from SAPS to the Hawks**

I was surprised to learn that I had been reported to the Hawks for allegations of embezzlement, forgery and corruption as testified by Dr. Legoabe who we learnt is also co-director in HETN with Prof. Phendla. Chair, you should demand proof of these allegations as you did with Modiba of the SRC.

This process has unfairly afforded people to come and attack my reputation and there is nothing which can be done against them, despite the unsubstantiated and malicious attack on me because of the parliamentary privilege accorded to them by the Constitution.

Nonetheless, the University has recently received a report from Lt. Col RD Lesufi of the Serious Corruption Investigation Directorate for Priority Crime Investigation in Polokwane signed and dated 17th Feb 2021 (**Appendix 20**). The report titled "Polokwane Enquiry 04/09/2016, corruption/PFMA in connection with the investigation related to University of Venda" clears me of these wicked, nefarious, vexatious allegations against me by people who have made it their life time project to destroy me for simply doing my job as Vice Chancellor and Principle at Univen by adopting a zero-tolerance approach to corruption. I repeat, corruption is evil and those that are brave to tackle it must be ready for the wicked fight back. I have scars to prove this, and its scars I shall wear with pride for the rest of my life.

15. Mbatl worked against the interests of South Africans due to the internationalization policy

I am not sure what Dr. Legoabe's real intent with this allegation is meant to elicit. This inquiry should be made aware that even before I joined UNIVEN, there were pockets of internationalization but which were haphazard in their very nature. UNIVEN did not have a structured published strategic plan when I joined in 2008. Indeed, in the first strategic plan for the UNIVEN for 2009 – 2013, a strategic objective on internationalization was embedded in the new strategy document. The crafting of the strategic plan was a combined team effort of the senior and executive management team, labour and SRC. Experts were further invited to add value to these strategic planning sessions. Finally, the University Council would adopt the strategic plan with its clearly defined KPAs, KPIs and targets. This inquiry should familiarize itself with the Annual Reports of the University of Venda in which detailed reports on the activities emanating from the strategic objective on internationalization from 2008 – 20218 are presented. These outputs will confirm that contrary to the allegations from Dr. Legoabe, this objective immensely assisted UNIVEN to establish its foot print the SADC region, on the African continent and also as a global player in the higher education space. Interesting, this particular strategic objective is one of the major reasons UNIVEN is today among the top 100 universities (**Appendix 37**).

16. TESTIMONY BY DR. TSHITEREKA

16.1 Dr. Tshitereke gives an overly exaggerated account of his importance as a Director in the Office of the Vice Chancellor which is totally out of quilt with his job description. He was never a member of Council nor its subcommittees and only attended on my request when there was a matter that he needed to report or account as requested by the Vice Chancellor. The inquiry ought to have asked him

to produce his job description to confirm whether his span of control was as important as he falsely projects.

- 16.2 He was an incompetent, lazy member of my senior management team, totally unable to conduct basic tasks that were meant to largely support the voluminous administrative work load in the Vice Chancellor's office. Basically, he was out of his depths as a senior manager within the higher education space. He was not a team player, always projecting himself as superior to those in similar ranks to him, and totally disregarding assignments that I would present to him and other colleagues. For example, when I asked him to work with the Director Communications and Marketing, and the Director International Relations in drafting the University annual report, he was incapable of rising to this task as it required deep and serious analysis of past reports and to synthesis these into a coherent accurate reflection of the performance of the preceding year. Out of exasperation and his constant nagging, his two senior colleagues simply let him be and completed the task on their own. Tshitereke always pulled rank on his senior and executive management colleagues, and was reported to have even sat in lecture halls to assess lecturers. For somebody who was never an academic, I found such behavior insulting to our senior academics. When he was questioned, he claimed that it was on my instruction, which was obviously a lie.
- 16.3 I was disappointed in his performance because while he is able to convince you in an interview that he has potential, his actual work output was way below par, shabby and added no value. Due to his poor performance, lack of respect, insubordination and inability to perform to the rigor and quality expected of the position of Director Office of the Vice Chancellor, he parted ways with the University. His exit was done procedurally and in terms of the laws of the country and the labour relations act. I certainly would never recommend him for a position of leadership in any organization.
- 16.4 The same document that Dr Tshitereke says I shared with him, my response to the CGE, categorically denies any form of relationship or sexual harassment, or assault as alleged by Phendla. It is absurd that I would then confide in him facts

that I deny in my submission. At most this is a laughable allegation and must be seen for what it is; a caucused strategy with my accusers or what I term as the coalition of the wounded, to discredit me. Dr. Tshitereke was my subordinate and not my friend by any stretch of the imagination and it is therefore absurd and unbelievable that I would have shared such information with him.

- 16.5 I deny the allegation that I was anxious to go to the commission of gender equality workshop. Again, this is a convenient statement of lies by Tshitereke to give effect to his intention to discredit me at this inquiry. As he correctly alluded, I was inundated with many office demands and meetings. It is not unusual for the Vice Chancellor to delegate to other members of the executive, particularly the Deputy Vice Chancellors to perform university duties on behalf of the Vice Chancellor. Later when I learnt that it was mandatory for Vice Chancellors to attend, I happily obliged.
- 16.6 I deny the allegation that I concurred with Tshitereke's ill-conceived plan to settle with Phendla. Dr Tshitereke's statement is in direct conflict and contradictory from that of Adv. Edward Lambani, the former Director of legal services and the current Registrar of Univen. Adv. Lambani correctly indicated that this never an instruction nor an idea from me, but rather from him as the Director and Head of the Legal Services Department. As a matter of fact, even on the matters of settlement for Mr. Nemadzivhanani I never participated as this would have been a conflict of interest on my part, considering that as the Accounting Officer I had signed their letters of dismissal.
- 16.7 I deny the allegation that Mbatu could not have been cleared by Council. Only HR has the requisite mandate to have implemented its sexual harassment policy. Dr. Tshitereke once again exposes his lack of understanding of the higher education act, the role of Council and the role assigned to the Director HR, and the delegation of authority framework. Mr. Manenzhe put this matter to rest by contradicting Dr. Tshitereke's unfounded statement, and confirming that indeed that Council had the mandate to deal with Phendla's allegation of sexual harassment against the Vice Chancellor.

- 16.8 I deny the allegations about telephone calls to Phendla. The Labour court took these false allegations into consideration in reaching a determination that Phendla's dismissal was not on the account of sex. But rather, that her dismissal was procedurally and substantively fair on account of her corrupt conduct.
- 16.9 I deny the allegation that I asked him to link to serve as the link with internal and external auditors. This is a lie. The ToRs for both internal and external audit are clear and I therefore could not have been delegated to Dr. Tshitereke my functions as VC. I am the one who gave Dr. Tshitereke the first draft report from the external auditors that had raised concerns about a number of infrastructure projects. His brief was to read the draft report and to thereafter brief me on areas that would require my attention. It would be a derelict of duty if a Vice Chancellor was to delegate his responsibilities on oversight to a junior such as a Director in the Office of the Vice Chancellor. I always directly engaged with both the internal and external auditors, after which they would, independently submit their reports to the Audit and Risk Committee of Council.
- 16.10 I deny the allegation that I did not take into account his report on the alleged anomalies with infrastructure projects. Dr. Tshitereke was not a member of the Infrastructure Project Monitoring committee (also called the Project Board). He approached me and requested whether I could allow him sit in the project board because he was of the view that he could add value to these meetings. I consented and requested the DVC Operations Dr Zaaiman to allow him to sit in project board meetings. His role was to actively participate and to contribute to the effective functioning of the project board and to raise his concerns there for noting and action.
- 16.11 I learnt from Dr Zaaiman the DVC Operations that indeed the concerns that Dr Tshitereke was raising had been raised in the project board, and that appropriate interventions, including reporting to the Legal Department, to the Audit and Risk Committee, and to the Finance Committee of Council had been effected. It is therefore disingenuous on the part of Dr. Tshitereke to paint a false picture that I

was either condoning corruption or that I was turning a blind eye to serious allegations of corruption and mismanagement of project.

16.12 I deny the allegations that I did not take appropriate steps to deal with water shortages and fixing boreholes. It is either Dr. Tshitereke did not pay attention to the reports presented in senior management committee meetings, or has suddenly developed selective amnesia, or maybe even both. Extensive work was done in rebuilding our bore holes on campus and water was directed into newly constructed water tanks. This was done to mitigate the risk of water shortages on campus. This was a decision taken at the Executive Management Committee and was implemented under the executive oversight of the DVC Operations Dr. Jannie Zaaiman.

16.13 I deny the allegations that I dismantled internal audit. Hon Chair, please request Dr. Tshitereke to provide evidence to back up this wild and false allegation.

16.14 I deny the allegation that the VC removed the position of Director Office of the Vice Chancellor from the structure .The matter of the review of the senior management structure was an instruction from the HR Committee of Council. The proposals of the revised structure were presented to the Executive Management Committee of Council, Senior Management Committee, Labour, Institutional Forum, Senate and finally to Council. By the time I left UNIVEN in January 2018 the structure had not been finalized. The changes to the structure were informed by all these different bodies referred to above.

17. TESTIMONY BY MR. MANENZHE

17.1 Manenzhe alleged that Modise's report showed a *prima facie* case of sexual harassment against Mbatl. I submit that Modise's report does not make such a conclusion and further that the mediation report has been reviewed, set aside and declared to be null and void and to be of no force.

- 17.2 I deny the allegation that Mbatl tried to change the statute to give himself a third term. The decision to review the statute was a decision of Council and not the Vice Chancellor. The process was managed by the Registrar Prof. Nesamvuni and not by the Vice Chancellor. In any event, the statute that was being revised had a clause that said the term of office for the VC was for a maximum of two terms, and could only be extended at the discretion of Council. What I heard, and what I believe was true, was that Mr. Makhado and Mr. Manenzhe, among others, were concerned that this clause would possibly give me a third term and therefore campaigned to have it removed and this is exactly what happened. The clause that gave Council the discretion to extend a VCs term was scrapped. If we were to use the logic as my accusers, if anybody was to complain about the change of the statute, it should have been the Vice Chancellor.
- 17.3 I deny the allegation that Virtual® was not appointed in terms of a competitive bid processes of the University of Venda. During his testimony the UNIVEN Chair of Council satisfactorily answered this question and provide evidence that this company was appointed in line with the university supply chain management policy.
- 17.4 I deny the allegations that Mbatl appointed consultants to bump up his salary. The matter of my salary has come up during this inquiry, with a false narrative that I somehow influenced my package. The salary of a Vice Chancellor is determined by Council without the direct participation of the Vice Chancellor. For the first two years or so, my salary increase was part of the general collective bargaining, after which the Director HR Mr. Manenzhe would present the salary reviews to the HR Committee of Council, and finally to Council for approval. Around 2011, Council took a decision that the remuneration of members of executive management should not be part of the general salary negotiations. Council took a decision that a remuneration expert be appointed to do this task and to report to Council, providing all the necessary evidence to support the recommendation. Honorable Chair, from that time hence forth, the salary quantum in salary adjustments for the

Executive, including the Vice Chancellor was always lower than the rest of the staff.

17.5 I deny the allegation that Nemadzivhanani and Manenzhe were spied upon.

Context:

From the moment that the Deloitte forensic investigation was initiated into corrupt practices at UNIVEN, and with disciplinary processes unfolding and leading to the dismissal of certain members of the senior and executive management team, I became a target of intimidation, abuse and death threats. These are summarize below with the relevant police case numbers:

	Police case reference number	
1	Garsfontein CAS 494/6/2010	I received anonymous death threat calls, abusive and threatening SMSes. I was warned that I will die for interfering and stopping tenders from going to the owners of the university.
2	Garsfontein CAS 2019/8/2010	At the height of the intimidation tactics as I fought off corruption and cleaning up UNIVEN, armed men who pretended to bring flowers to me after my eye surgery, forcefully entered my Pretoria residence. They demanded from my house help to be shown where I was hiding as they had finally come for me to finish me for interfering with tenders at Univen.
3	Thohoyandou CAS 590/7/2010	Thieves broke into the room of my caretaker, Mrs. Takalani Sinyosi whilst she was asleep and stole keys to the official residence and the remote controls.

		<p>Before we replaced the keys, unknown and unauthorized people actually had access to my official residence and armed response called me to find out what was happening as they were able to detect motion in the house. At the point I was away on business in Gauteng.</p>
4	<p>Thohoyandou CAS 590/7/2010</p>	<p>My house keeper was always threatened for protecting a foreigner and was asked why couldn't she simply "betray" him? She was further threatened with consequences if she kept protecting me. One weekend while she and her daughter were at the VCs official residence over a weekend to clean the place, her daughter's car was temporarily taken from their possession to teach her a lesson. The car was later found abandoned within unit D, with a lot of damage to the body of the car. This was to teach her a lesson.</p>
5	<p>Polokwane CAS 621/9/2011</p>	<p>Some of the threatening messages I always received was that I should watch over my shoulders. That there is evidence to show that I have done a lot of evil things and that they will get me.</p> <p>During a period where I had to go for a meeting with the MEC for Education in Limpopo Mr. Dickson Masemola, my driver and I made stop overs in Polokwane for other business, and finally arriving in Warm Baths for a meeting with the Premier of Limpopo Province Hon. Stanley Mathabatha. The meeting with the Premier was in my capacity as a member of the Premier's Advisory Committee. On this particular day my official lap top mysteriously disappeared. It was stolen and it had a lot of sensitive information relating to Phendla's matter and other forms of malfeasance at UNIVEN.</p>
6	<p>Garsfontein CAS 472/9/2011</p>	<p>I reported further cases of intimidation. There was strong suspicion that those individuals that had been suspended, dismissed or still going through disciplinary hearings were behind this attack on me.</p>

7	Midrand CAS 1013/9/2011	<p>My official driver Mr. Takalani Mudologi and I had noted a trend where cars were trailing me during trips between Thohoyandou and Gauteng, and in one instance even tried to block the road as we drove to Thohoyandou from Makhado.</p> <p>On discussions with our head of security it was determined that this was a security threat and my driver was subsequently trained in defensive driving and later after due training, was further armed.</p> <p>Not long, the official University car that I used was stolen while parked at a hotel in Midrand. I resorted to using my personal car and soon thereafter I reported malicious damage to my personal car too, which I had parked at a hotel in Midrand.</p>
8	Thohoyandou OB 444/10/2011	A man claiming to be Mr. Phendla, husband to Prof. Thidziambi Tshivhase Phendla called and threatened to kill me. I reported this matter to the police for investigation.
9		My wife received threatening calls to the effect that the VC was unfairly treating Phendla. That they know where my family lives, and Mbatlana should do the right thing.
10	2011	<p>I received an airmail threatening me with death through ethnic cleansing as I was perceived to be a foreigner (Appendix 38)</p> <p>The Deputy Chair of Council Mr. Ravhuanzwo also received a similar letter with similar undertones of retribution for supporting a foreigner</p>

17.6 Takalani Sinyosi (former caretaker of my official residence Unit D Thohoyandou)

- On several occasions there were incidents of intimidation, abuse and verbal threats of physical harm directed at both to Ms. Takalani Sinyosi and to me for fighting corruption at UNIVEN. Ms Sinyosi was a University employee who served as the caretaker of my official residence.
- On a few occasions there was attempted smashing open of the gate to my official residence which was witnessed by Ms. Sinyosi who stayed in the outside flat. Ms. Sinyosi was absolutely traumatized and cold with fear following such incidences.

17.7 Attempts to intimidate me with dead animals

At the height of my battle against corrupt activities at UNIVEN, there was another intimidation tactic against me, with dead unrecognizable organic matter and animals thrown into the yard of my official residence. The then Student Intern in my office Mr. Dominic Mokoena took pictures of these strange objects/animals.

17.8 Swartberg Intelligence Support Services

I was truly scared for my life and the well being of my family and these matters were reported to the Executive Committee of Council in September 2011 (**Appendix 39**). A decision was taken that in view of the threats to my life, a private investigator be appointed to get to the bottom of this matter. Swartberg Intelligence Support Services were appointed for this specialized work and completed their report dated 20 February 2012 (**Appendix 40**). The outcome of the report was shared with the Executive Committee of Council. This report was presented to the SAPS for further investigations and a docket was opened.

- 17.9 I deny the allegation that Mbatlana was reluctant to take action against Dr. Takalani Dzaga. Manenzhe alleged that Dr. Dzaga had assaulted him in the corridors of their offices. I referred this matter to the Director, Legal Services office to deal with,

as I did with all similar matters. Manenzhe was known to be a belligerent arrogant individual who rarely agreed with his peers or his direct line manager, Dr. Jannie Zaaiman the DVC Operations. Therefore, a decision was taken to investigate this matter with a view to determining whether there was a *prima facie* case or not against Mr. Dzaga. Getting an external resource was to mitigate accusations from Manenzhe that the internal investigator would be biased, which was a very likely allegation from him knowing his belligerent nature. Adv. J.S. Maake, with recommendations from the Legal Department, was appointed to investigate the veracity of these allegations. His recommendation reads:

Para 68, page 9: “...I strongly counsel against disciplinary hearing action. If it were deemed necessary to be taken, it ought to be taken against both dramatic personae on a misconduct of bringing the employers name into disrepute” (Appendix 41).

In a meeting I held with the two Directors, I pleaded with them to reconcile, and that if they didn't, I would be left with no choice but to charge both of them. Dr. Dzaga was amenable to reconciliation while Manenzhe in his normal belligerent boastful manner, said he would not accept my recommendation. I submit therefore that Manenzhe's allegation that I was reluctant to act against Dr Dzaga is false. I am advised that a disciplinary hearing was conducted against Dr. Dzaga and he was found not guilty and cleared of the allegations against him from Manenzhe.

17.10 I deny the allegation that performance bonuses only benefited those who supported Mbatl. I am at a total loss how a man who served as a Director HR for almost 25 years can make such a careless allegation, considering that he is the one who crafted the performance management policy and that he was the custodian of all HR policies. One wonders why he never reported this to the Chair of Council, HR Committee of Council or indeed the University Council. The performance management evaluation process was deliberately crafted to mitigate against such baseless allegations. As a start all senior and executive managers signed performance agreements with their line managers. In Manenzhe's case, his

performance agreement was between him and his line executive the DVC Operations Dr Jannie Zaaiman. The panel that evaluated Manenzhe would be composed of about 5 – 6 members, and included external expert panel members, and chaired by the DVC Operations.

Manenzhe on a number of occasions complained to anybody who cared to listen about his performance evaluation outcomes and his insinuations that Dr Zaaiman had deliberately scored him down. These were of course baseless allegations as the performance evaluations were conducted with the highest levels of professionalism. See attached reports of consolidated reports for members of senior management that reported to the DVC Operations, demonstrating the transparency and thoroughness in which these evaluations were conducted. Mr. Manenzhe's performance evaluation are captured from page 3 of this report (**Appendix 42**).

His final score was a 3.5 and therefore he didn't qualify for bonus in terms of the HR guidelines developed by Mr. Manenzhe himself.

17.11 I deny the allegation that Mbatl got rid of Mrs. Phendu because she did not support his desire to have his term renewed to a third term. Mrs. Phendu was dismissed for a criminal misconduct. She had a forged diploma certificate and after a duly constituted disciplinary hearing chaired by an independent externally appointed Chairperson, she was found guilty and was summarily dismissed.

17.12 I deny the allegation that Mbatl always got a bonus whether he had performed or not. This is a spurious allegation and as described above, performance management of the VC and other members of the executive management followed a very strict yet transparent process.

17.13 I deny the allegation that certain members of Council traveled overseas for frivolous reasons. All visits, whether regional or overseas with members of Council were undertaken in support of Univen's core business. Mr. Nemadzivhanani in his testimony indicated how he travelled with both the Chair and the Deputy Chair of Council to Zimbabwe. Surprisingly Mr. Manenzhe does not appear to have any problems with this but applies different principles where it's the VC in the company of the same Council members on a different trip.

Harare – Zimbabwe

Mr. Nemadzivhanani together with Mrs. Shirley Mabusela and Mr. Shumani Ravhuanzwo visited Harare, Zimbabwe to meet with President Mugabe and other members of cabinet.

KNUST and UCC – Ghana

Together with the Chair of Council Judge Yvonne Mokgoro I visited Ghana between 19 – 22nd October 2009. We signed MoUs with the Kwame Nkrumah University of Science and Technology and the University of Cape Coast.

Visit to the Netherlands (2nd – 5th October 2012) with Mr. Ravhuanzwo, Deputy Chair of Council

The purpose of the visit was to explore a number of policy issues in the Netherlands relevant to the South African Higher Education sector, particularly the role of professional education institutions (HBO). The visit also sought to establish partnerships in the areas of career focused programmes, staff and student exchange in career focused and traditional degree programmes, staff development, and in PhD training to achieve the 75% target for PhDs in faculties by 2030 as reflected in the national development plan. Institutions visited included the Institute for Social Studies, The Hague University of Applied Sciences, Wageningen Research University and, Van Hall Larenstein University of Applied Sciences.

United States of America

Together with the Chairperson of Council Mrs Shirley Mabusela I visited the following institutions between 8th – 12th July 2013 as part of a marketing and fundraising strategy by engaging with philanthropic organizations, Trusts and other potential donors.

- Medtronic which specializes in advanced medical equipment in Washington DC
- Presentation by VC and Chair of Council to the Executive Council on Diplomacy in Washington DC
- Christie Company in New York that deals with PPP infrastructure projects
- Infinite family – New York, an NGO on community work in developing countries
- Elma Philanthropies in New York
- The Coca Cola Company in New York
- University of Columbia, New York

The University policy did not exclude University Council members from performing functions whether within South Africa, in the SADC region or overseas that were for the benefit of the University. It is a lie that Mrs. Mabusela was accompanied by her husband to the United States and Mr. Manenzhe should be rebuked for lying to this honorable committee.

This inquiry should set a precedent that one cannot just come and make baseless allegation before the committee, this by considering bringing criminal charges of perjury against Manenzhe for deliberately lying under oath and misleading the committee.

18. TESTIMONY FROM MR. NEMADZIVHANANI

18.1 I deny the allegation that the report of Mrs Faith Muthambi did not sit well with Mbatl. When an employee was dismissed from UNIVEN, they had a right to appeal to the Appeals Committee of Council which was constituted strictly of external Council members. Their report/recommendations would then serve before the entire Council meeting for consideration. The appeals committee rejected Mr. Nemadzhivhanani's appeal and confirmed the sanction of dismissal on the account of gross misconduct and corruption. At no point does the appeal committee consult with the Vice Chancellor during the hearing process, and they not expected to do so either (**Appendix 43**)

I wish to reiterate that when allegations were made against staff members, I had an obligation to investigate these allegations and to establish if there was a *prima facie* case, before disciplinary action would be taken. All such matters were processed by the office of the Director Legal Services. I had no personal interests in all these cases. I am sure if I had not taken appropriate steps to investigate these cases, the focus of this inquiry would have been that there was dereliction of duty on my part. While these cases were prosecuted in line with our existing policies and labour laws of the country, I am now being questioned on whether this was not wasteful expenditure. I always relied on legal advice, both internal and external, in processing all allegations that were brought before me, in line with the University policies, University Statute and the authority vested on the office of the Vice Chancellor and Principal as provided for in the Higher Education Act.

The Deloitte Forensic Report (**Appendix 1**) recommended disciplinary action against Prof Phendla (Para 4, page 25) and members of the Tender Committee (para 5, page 25) ie

- Dr. Jim Leatt (The Acting Vice Chancellor who was my predecessor)
- Mr. Madzhie (A member of Council and Chair of the Tender Committee)

- Mr. Nemadzhivhanani (University Registrar)
- Mr. Makumbane (A member of Council)
- Mr. Ramulongo (From Finance)
- Dr. Lidovho (Legal Advisor to the Vice Chancellor)
- Mr. Masiagwala (Facilities Department)

All the above were processed in terms of the University code of conduct and legal advice obtained. I was careful never to act as the judge, jury and executioner precisely to avoid the kind of allegations that my accusers have brought before this inquiry.

18.2 WHAT KIND OF LEADER IS PROF. PETER MBATI, AND DO YOU THINK HE IS SUITABLE TO LEAD SMU?

Honorable chair, this is a question you have consistently put to all of my accusers, a coalition of the wounded and they did not disappoint you when all of them, in unison, almost as though choreographed, sang the same song and concurred that I did not possess the requisite leadership qualities. The entire sample to whom you put this question are individuals who were dismissed from the University following due processes laid down by the University Policy, in line with our disciplinary code and laws of this country. They are naturally angry with me, bitter and vengeful and it was no surprise that they didn't have any kind words to say about me. **However, the best yard stick to determine my leadership, as you would know Honorable Chairperson, would be to put such a question to a non-biased sample of individuals who have previously worked with me.** Below please find examples of awards bestowed to me in recognition of my leadership which are also detailed in my CV (**Appendix 32**):

Awards:

- 2017: RUFORUM IMPRESSA Award (First runner up). Recognition award to Professor Mbatl for excellence in research, institutional transformation and building Africa's human resource capacity. The award comprised of a trophy, a certificate and US\$ 15,000.00. Award ceremony was held in Lilongwe Malawi on 26 October 2017.
- 2013: The Limpopo Black Management Forum honoured Professor Peter Mbatl with an award for Excellent Leadership at a dinner held at Khoroni Hotel, Thohoyandou on Friday 21st June 2013.
- 2012: Gold medal award; University of Venda Black Management Forum (BMF) Student Chapter awarded me a gold medal and trophy for 'Exceptional work in transforming the University of Venda to be a centre of academic excellence'. 19th November 2012 University of Venda, Council Chambers.
- 2012: The International Socrates Committee of Europe Business Assembly (*Oxford, UK*) recommended the Vice Chancellor and Principal Prof. Peter Mbatl to join the members of the Club of the Rectors of Europe. The Nomination Committee of Europe Business Assembly further recommend the University of Venda to be awarded with the International "European Quality Award". The award ceremony was held on 12th July 2012 under the auspices of Dublin City Councils' Summit of Leaders, Dublin, Ireland
- 2011: I was awarded the "La Matinal Educational Excellence Award for outstanding contribution to Education" at the inaugural Africa-India Partnership Summit held at the Sugar Beach Resorts, Mauritius on 14th December 2011. The award included a trophy and a citation.
- 2007: Award on "Outstanding Leadership" bestowed during the 25th Silver Jubilee Celebrations of the University of the Free State, Qwaqwa campus on 14th September 2007. I had served as both the Executive Director Academic and later as the first Principle of the QwaQwa campus when it was incorporated into the University of the Free State.

18.3 FAREWELL MESSAGES AFTER THE END OF MY TERM AS VICE CHANCELLOR AT UNIVEN

Nendila Nov – Dec 2017 (Appendix 44)

a)“You lifted Univen to its greatest heights – you made us proud as a nation,” said Univen’s **NEHAWU Chairperson, Alfred Mutoti**. “Your mark will remain forever in the history of Univen. We wish you the best wherever you wish to go.”

b)“You dramatically improved Univen’s graduation output and today we produce more than 2 000 graduates in every graduation ceremony,” “Long service awards and online registration and applications are but a few of the advantages he introduced. Today Univen plays a big role in the development of Thohoyandou.” said **Mr Dongola on behalf of admin staff members**.

c) “He is a man of integrity, goal-orientated and made Univen a university of choice,” “Through his leadership, we witnessed calmness and leadership at the university. We will miss your emotional intelligence.” said **Mrs Malehu Maluleke on behalf of academic staff association**.

d) Dr Thizwilondi Mudau described Prof Mbatlana as an authentic leader and approachable.

e) **We are now a force to be reckoned with because of Prof Mbatlana- Prof Crafford**. The Deputy Vice-Chancellor Academic, Prof Jan Crafford indicated that Prof Mbatlana survived a total onslaught against his leadership during his tenure, but he survived with grace and dignity. “We are now a force to be reckoned with. You have made us believe that a small university could transcend its history and disadvantage to the extent that it’s competing with universities that are 100 years old,” Prof Crafford added (**Appendix 45**)

18.4 Nendila Special Edition 2018 (Appendix 46)

a) Univen remains the proud beneficiary of all Mbatl's efforts: Mr. Serobi Maja, Chair of Council

“With your dedication, commitment and unequalled love for Univen, you transformed this university from humble beginnings to one of the most recognized academic institutions of our beloved country. When you took over in 2008, the institution looked like a glorified high school with very few amenities. You have spearheaded the much needed construction of modern lecture halls, office spaces, student residences and other infrastructure projects that compete with the best in the country and on the continent. We remain the proud beneficiaries of your efforts to lift the university from the quagmire of hopelessness into sunlit pathways of hope and fulfilment. The many academic and student exchange programmes that we have witnessed over the past years is testimony to your relentless efforts to make our institution not only a university of choice, but an institution that will stand ground among other universities of the world.

“As Council members we salute the role you played to ensure that Univen produces high quality graduates that will become assets and not liabilities of the country. Your name and personality will remain indelible in our minds for years to come.”

b) You made UNIVEN the institution of Choice: Shirley Mabusela Former Chairperson of Council

You transformed the intolerable condition of Univen into the institution of choice. “When I joined Univen, the condition was a mess. Lecture halls were too small to accommodate all students but today, it is markedly different. Regardless of the amount of pressure, you produced quality work. Today, I can proudly stand up and talk about Univen without any doubts.”

c) Your achievements have put Univen on the map” Executive Director: National Research Foundation, Dr Ndanduleni Nthambeleni

“Univen experienced a remarkable increased percentage of publications, the graduation rate has improved enormously and external funding for research has improved.

**d) “The most profound, visionary vice chancellor the university ever had”
Univen Council AcademicStaff representative, Ms. Malehu Maluleke**

You were the most profound, visionary vice chancellor that the university ever had in its history.

“You came at a time when the morale of Univen staff members was very low. You reversed the then status quo, bringing huge relief and hope to the entire university. We are no longer ashamed to engage in robust debates with academics from other institutions, not only in the Southern African region but worldwide and to proudly say the name of the university.

“You brought a facelift to the University of Venda, not only in terms of its infrastructure, but also in its core business. You ensured that there is real transformation and you were at the helm of that transformation. Through your visionary leadership, during the times of #FeesMustFall, we witnessed tranquility and stability, when most of the South African universities were experiencing protests, accompanied by violent events.

“We saw many career focused programmes being accredited by the Council for higher Education, among those the Bachelor of Accounting Sciences Degree and the Agricultural Engineering Programme.

“Most academics and administration staff members improved their qualifications, evidenced by an overwhelming number of MA’s and PHD’s which were conferred during graduations during your tenure.

“Through your dedication and selflessness you steered the university academically, from the bottom to the top. All of this was not achieved by chance or by accident, neither through magic nor miraculously - it came about through hard work, determination and much endurance.”

18.5 Nendila team.

- a) For Univen, the past ten years were certainly dictated by Prof Mbatl's will to turn the university around, to show the pessimists that a rural-based university can carve a niche in the community it finds itself in, and do this without fear of contradiction.
- b) At the time pessimists asked the question: "When does a university cease to exist", referring to Univen's bleak performance. Today academic performance and student and staff pride speak for itself – Univen has written off the dire past.
- c) How does this happen? A belief in what can be achieved, a trust in the human potential that you work with - and sheer persistence. All of this is embodied in Prof Mbatl. He never believed otherwise.
- d) Today Univen stands its ground among its peers. The Student Representative Council is part of the university management and members attend, for example, local and international conferences and meetings alongside management. Univen was the first university to provide tablets for academic use to all students – a few dramatic developments expected at much bigger and urbanized campuses.
- e) Univen salutes you as one of its icons – you move among giants.

18.6 SRC: "You are the epitome of a great leader" Former Student Representative Council President, Ms., Mashudu Nthulane

"Through your leadership you made sure that Univen is where it is today.

"You had an open door policy to all staff members and students. You have imparted knowledge and skills to most of us. We could differ – I have learned so much from you, not only as the Vice Chancellor but also as a father."

"Your academic excellence and collective leadership saw Univen continue to grow to greater strides.

"You are the epitome of a great leader - your influence and great leadership will forever be engrained in me. You spent a great ten years imparting the right knowledge, skills and producing the best student leaders in the country, who fought a good fight during difficult times. We might not have always agreed with you but you were the best. Throughout your stay you were an outstanding Vice Chancellor, committed to promoting excellence in education and

making sure students with disabilities are well taken care of.”

18.7 NEHAWU, UNIVEN BRANCH: “You lifted Univen higher than high “*NEHAWU Univen Chairperson: Alfred Mutoti*”

“Whilst I have experienced different kinds of leadership styles during my career, I have never quite experienced that of Prof Mbatlana. The highly magnetic attraction makes him attract all people to support him. He truly leads by example.

“He brought changes to all Univen spheres of life. Doors were always open to all. Mbatlana is a good listener, a good strategic thinker “... he attracted donors for funds and partnerships - a hunter who never came home empty-handed.

“The relationship between NEHAWU and Univen was at times not good, but new leaders determine the dynamics of such relationships – Mbatlana and I worked together for the benefit of Univen and the workers. NEHAWU became a whistle blower against fraud and corruption and those implicated were charged and expelled. We stood the test of time and fully realising that real leaders are principled, we will not deter from actions that benefit right-minded people.

“You lifted Univen higher than high. Your mark will remain for ever in the history of Univen.”

18.8 SRC: Today we are proud to boast about our institution – Former Student Representative Council President, Mafulo Mudau

“When Prof Mbatlana came, this university was like an RDP house - or rather like the village of Alexandra.

“We had no proper governing system, infrastructure, and we were like lost sheep without a shepherd.

“Infrastructure like residences, classrooms, labs and offices were lacking, many departments were struggling, some not even existing. Today, we are proud to post pictures on Facebook, Twitter and other social media tools, bragging about our institution. We salute the

old man for that and give him a hand of applause.

“During his term in office, he encouraged us to be leaders who provide solutions, not be part of the problem, and who also excel academically. He also fought fraud and corruption with distinction and that led to many dismissals. Therefore, we don’t want fraudsters and plagiarism masters entering via the back door. Whenever you see such tendencies or symptoms raising its head, you always acted harshly and you were never scared to take a decision, no matter how hard or painful it might be.

“Our campus has not experienced violent protests for quite some time, because of your open-door policy which allows even a ground man to feel free to come and talk to you. Even when we deadlocked, you never threatened to expel us, unlike others.

“Introducing the ‘Grow your own timber’ project, we saw how a visionary and preservative leader you are. That is why today we have former student council presidents and members with degrees. That’s what leadership is.”

Prof Mokgale Makgopa: Dean School of Human and Social Sciences

“Anybody can become a “boss”, however, Prof Mbatlana was a visionary leader,” said the Dean of the School of Human and Social Sciences, Prof Mokgale Makgopa. “You led by persuasion, rather than coercion. Your wisdom and leadership has shaped the Univen into what it is today. Univen is favourably counted among the top higher education institutions in South Africa.”

Registrar, Prof Nesamvuni: Prof Mbatlana showed us what good leadership entails”

DVC Academic”: Prof Jan Crawford; “Prof. Mbatlana has internationalised Univen on both the African and global map – his legacy will speak for itself” .

18.9 Allegation that Mbatlana earned an S&T of 700,000 in 2016

Page 151 of the UNIVEN 2016 Annual Report (**Appendix 47**) under the item “*Disclosure of Remuneration of senior and executive management as required by the higher education regulations*” shows:

Name	Position	2016 Salary R'000	Benefits R'000	Other allowances	Total R'000
Mbati P.A.	Vice Chancellor and Principal	3 648	120 <i>(which included S&T and performance bonus and other benefits)</i>	154	3 922

The above are audited figures by the University external auditors, and signed off by the UNIVEN Director of Finance and the Audit and Risk Committee of Council. I am not sure where the exaggerated figure of R700,000.00 was derived from.

18.10 Allegation: Mbati only paid bonuses to those he liked

The University had a performance management system developed and managed by the Director Human Resources Mr. Manenzhe. The Vice Chancellor was performance evaluated by a panel that consisted of the Executive Committee of Council. Because of the maturity level of performance management at UNIVEN at the time, a consultant was appointed to assist Council in the administrative processing, including collating of information from the interviewee and the scoring from the members of the panel. The results of the performance evaluation were

then submitted to Mr. Manenzhe for processing in terms of the UNIVEN policies on performance management.

I was responsible for chairing a panel that evaluated those Executives that reported to me and Mr. Manenzhe was not one of these as he reported to the DVC Operations. The panel consisted of external experts drawn from universities and from Science Councils. The final score was computed as an average score of the panel members, and the results collated by the HR consultant. This was always done to ensure transparency and fairness in the process.

I never chaired the panel that evaluated Deans and Director (except for two Directors who reported to me). I therefore was never part of Mr. Manenzhe's performance evaluation. Mr. Manenzhe reported to Dr Zaaiman, the DVC Operations, and therefore his evaluation was chaired by the DVC Operations. This panel was composed of two or more external experts and Mr. Manenzhe's peers equivalent to Director. To support this panel was an HR consultant whose role was to ensure fair administration of the performance management evaluation process, to collate the data and to present reports to the relevant line executive. I am aware that Mr. Manenzhe was always belligerent and angry after his performance evaluation, saying that panel didn't like him and therefore scored him down. I think the problem was that while Mr. Manenzhe thought of himself as a high performer, his evaluation reflected otherwise. Attached please find a summary of the performance reports, prepared by an external HR performance consult, for Deans and Directors and which contradicts Manenzhe's submission that I only awarded bonuses to those that I favoured (**Appendix 42**)

18.11 Allegation: Mbatl received bonuses that he didn't deserve

Attached is my detailed performance report to the Council panel for the review of my performance dated 22nd May 2016 to give this inquiry an idea of how detailed this exercise was (**Appendix 48**).

As a sample of the feedback I received from the Council performance reviews, please look at Para 7, Page 6; comments by the Panel that evaluated me on 28th April 2015 (**Appendix 49**) and it reads:

“The Evaluation Committee of Council is extremely impressed with your performance as the Vice Chancellor and Principal of the University. We are not just impressed with your presentation, but your actual performance on the ground that you presented so accurately this morning. Our overall rating of your performance that has averaged 4.6 out of a possible 5 is confirmation of our satisfaction with your work in all the six (6) Key Performance Areas. This is in spite of the fact that there were new members on the evaluation pane, who were not involved in your last appraisal in 2014, where you were rated highly. This demonstrates your persistent performance that has seen the University on a continuous growth and improvement path in all its spheres. You continue to demonstrate quality leadership as demonstrated by the harmonious rapport that you have maintained with students, staff, Council, relevant government departments and indeed the community at large. We therefore have no hesitation in endorsing your evaluation report as excellent”.

Appendix 50 is the summary of my achievements that I presented to the University community during my farewell in November 2018. Please note a few highlights of my achievements as Vice Chancellor at UNIVEN:

- a) For the first time the University had published and widely utilized strategic plans which were translated to business plans, on the basis of which performance contracts for staff were agreed upon.
- b) Clean PQM
- c) All programmes HEQS aligned
- d) Agricultural engineering developed, approved and accredited

- e) Various other engineering programmes at different levels of development
- f) Increased leverage on internationalization, linkages and partnerships in implementing our strategic plan (Dr. Tshitereke was a beneficiary of this strategic objective, traveling with Prof Mrs. Netshandama to on over seas trips even though he was not a researcher)
- g) Roll out of student laptops and blackboard
- h) Implementation of on line student registration
- i) Student leadership model implemented
- j) Unqualified audits except for the **2016** audit
- k) Comprehensive academic re-engineering exercise and looking at relevance and viability of programmes
- l) Enhanced national alumni structures
- m) Creation of a social responsibility fund
- n) Growth of annual income from R365 mil to over a billion (3x growth of income)
- o) Growth of property, plant and equipment from R405 mil to R1.9 billion (5x growth)
- p) Grant total fund raising from SETAs to a value of R130 mil
- q) NRF researchers grew form one (myself) to 27
- r) Growth in per capita research output from 0.12 to 0.94
- s) UNIVEN leveraging on internationalization with partnerships with universities in SADC and almost all the continents supporting staff and student exchange programmes, research and community engagement
- t) Massive infrastructure projects funded through funds from University reserves, private sector (eg Dell), DHET, DBSA loan and ETDP SETA. We were probably the first university to approach DBSA for funding infrastructure projects.

Manenzhe's allegation therefore cannot stand.

19. ALLEGATIONS THAT THE DOMBA TRUST FUNDS WERE MISUSED

As part of my fundraising efforts, I together with Dr. Dzaga and Prof. Ogola met with the Board of Domba Trust in June 2013 to solicit for support towards the development of an engineering programme at UNIVEN. Subsequent to receiving our well-motivated proposal, an amount of R 3 mill was awarded to UNIVEN. The funds were used for purpose they were meant. Attached is a progress report (**Appendix 51**) prepared by the Director Communications and Marketing, and to whom the Advancement Unit reports, updating the Domba Trust on the progress with the R3 mil donated to UNIVEN. I must mention that these funds received through fund raising efforts are audited and at no point have the internal or external auditors raised a concern on the usage of these funds.

20. Allegation that Mbatlwa was instrumental in the dissolution of the UNIVEN

Foundation

In terms of the Deed of the Foundation, only the Council of the University of Venda has the powers to dissolve the Foundation. The Vice Chancellor served as Trustee on the Board of the Foundation. The University of Venda Council having noted the many challenges facing the Foundation, took a decision to dissolve the Foundation. **Appendix 52** provides the resolutions of Council with respect to the dissolution of the Univen Foundation

At this point I should point out that Mr. Makhado was dismissed from the University of Venda for misconduct relating to poor performance as an Advancement Officer. It is probably because of this that he has made it his mission to tarnish my name in collaboration with others who were dismissed for serious misconduct including corruption and other serious crimes. Makhado is part of the coalition of the wounded.

21. Credibility of Phendla as a witness

Phendla's credibility as a witness was questioned by both the Chairperson of her disciplinary hearing and the Judge of the Labour court. In her letter of grievance to the Chairperson of Council and to the CGE, Phendla made several serious allegations against me to support her claim of a romantic relationship and/or of a fall out of such a relationship. All these were tested and were found to be untruthful, and simply meant to tarnish my reputation.

21.1 Allegation that I presented Prof. Phendla with preliminary letter of appointment before she could be interviewed for Deanship because we had a relationship

This was a very serious allegation levelled against me and if proven true, would have indeed confirmed Prof. Phendla's allegation. CGE were very concerned about this allegation and brought forensic ICT experts to investigate this claim. The investigators spent about two or three days on campus. To date I have not seen their report on this serious allegation against me. On this particular matter, *Mr. Manenzhe (Director HR) testified in person at the Labor court in Johannesburg that Phendla was lying.* All letters of appointment, including these preliminary letters of appointment were crafted by Mr. Manenzhe and later brought to me for my approval.

See Mr. Manenzhe's report on this allegation (**Appendix 53**)

21.2 Allegation on the creation of a position of Assistant Legal Advisor

Phendla alleged that I was harassing her because she objected and did not support the Vice Chancellor's submission to the HR committee during the meeting held on 11 June 2011 as it was not in line with the policy and Univen structure. She further indicated that other members namely Messrs T.J. Manenzhe, K.C. Nematzivhanani, C. Mulowa and L. Maluleke also objected to the submission

Please see Mr. Manenzhe's response dated 27 September 2011 in which he states "As a result, Prof. Phendla's contention that the Vice Chancellor and Principal is victimizing her because of her objection for not supporting the creation of a position of Assistant Legal Advisor is unfounded as from her own admission it is clear that she was not the only member who objected to the proposal (**Appendix 54**, page 1, para 4).

21.3 Allegation of impropriety on the part of the Vice Chancellor in the appointment of Mr. Nematandani as a fundraiser

Prof. Phendla alleged that at the HR committee of Council, the Vice Chancellor wanted her to support his proposal to appoint Mr. Kirsten Nematandani who was on extended leave of absence as SAFA President, as a fund raiser. Prof. Phendla indicated that the HR Director and herself argued that UNIVEN did not have such a policy and we were afraid that the proposal would set an unacceptable precedence.

Mr. Manenzhe concludes his response by saying "*The allegations by Prof. Phendla are deliberate misrepresentations of facts or ignorance as she is a member of Council who is also a Senate Representative on HR Committee*" (**Appendix 54**, Page 3, para 2).

21.4 Allegation that Phendla and Mr. Manenzhe had discussed my salary of approximately R2.4 million per annum and that she was going to object to such an increase at the next HR Committee meeting

Mr. Manenzhe responded to this allegation by saying “*My response is that Prof. Phendla’s allegations are false. I never discussed nor informed Phendla about my proposal regarding salary increase as I’m also not aware of such a proposal which was written or submitted to the Human Resources Committee regarding the increase of the VC, DVCs and Legal Advisor and Registrar’s salaries*” (Appendix 54, Page 4, para 4).

21.5 Allegation that Phendla had to fight hard to get two administrative posts back to the School (Mushi and Padziri) because the VC wanted to rationalize first. This went on until the School of Education threatened to remove the Funza Lushaka bursary (which required a full time administrator) that the two posts were reassigned back to the School of Education later in 2020)

Mr. Manenzhe response was “*Our records show that Prof. Phendla’s request for the redeployment of Messdames Phadziri and Mushi was approved by Dr. Zaaiman on behalf of Management on 01 July 2010 and 05 August 2010 respectively*” (Appendix 54, Page 6, para 3).

21.6 Allegation that the Vice Chancellor refused to grant permission for the filling in of a position left vacant upon the retirement of Prof. Bayona who was now appointed an Emeritus Professor.

Mr. Manezhe responded as follows “*The HR department never informed Prof Phendla that there was a vacant position which can be filled with the approval of the Vice Chancellor and Principal as Prof. Bayona was appointed as Emeritus Professor against the substantive post of a professor which he was occupying prior to his appointment as Emeritus*”.

“*The Dean was advised to submit a motivation for the creation of a new post for consideration by the HR committee as it is a futile exercise to pursue the position which was already filled and the appointment cannot be reverse*” (**Appendix 54**, Page 6, para 5).

21.7 Allegation that the VC harassed Phendla by blocking the filling of active posts in the School of Education

Mr. Manezhe responded as follows “*The Department of Human Resources is not aware of the request for the activation of the posts. Under normal circumstances, if such requests are received the Department of Human Resources would prepare the necessary documentation for Management to make an informed decision. The process flow of such documents begins with the departmental head, who must submit the request the Dean for recommendation to the DVC who in turn declines or recommends same to the Vice Chancellor and principal for approval* (**Appendix 54**, Page 7, para 1 and 2).

22. Parliamentary Portfolio Committee Setting a dangerous precedent

22.1 An important question that arises is whether this inquiry does not set a precedent of fear and paralysis for those of us in public offices that have zero tolerance to corruption. Knowing that those accused of heinous crimes whether during the investigative stages or at the completion of their disciplinary processes and found

guilty would get favor from this August house to protect them even after duly constituted lawful structures such as Management, Council, Law enforcement agencies and courts have ruled otherwise, and that the Executive oversight of the Minister of Higher education and training has been kept abreast of all the actions taken in terms of university policies, procedures and the statute. This is a precedence that will come back to haunt the Higher Education Sector and even destroy the very fabric of management and governance in our Universities if not carefully weighed and considered.

- 22.2 We must question the extent of over reach by the portfolio committee and whether this has been within the laws of parliament. Further, this August House, in exercising fairness in its oversight role, must not be seen to tolerate acts of corruption in our public institutions of higher learning.
- 22.3 It is well documented that it was only during Phendla's disciplinary hearing process that she suddenly volunteered that the case of corruption against her was not because of the outcome of the Deloitte Forensic Report, but rather due to sex
- 22.4 It is noteworthy to observe the inconsistencies with Phendla's allegations against me have at different stages morphed from a romantic relationship, to sexual harassment and even more dramatically to sexual assault or rape. At different times and sometimes simultaneously she has reported me to the Univen Council, the SAPS, the CGE and the Labour court. It is possible that in collaboration with the HETN I was reported to the Hawks.
- 22.5 While the genesis of Phendla's disciplinary hearing was a serious criminal conduct of corruption, it is also noteworthy that in the entire inquiry no questions have been put to the witnesses on their views on the moral and or ethical values of those who have been accused of serious crimes such as corruption, and indeed even found guilty of corruption.



Prof. Peter Mbatia