



Recognised Trade Unions (RTU)

Written supplement to the joint presentation dated 24 February 2021

31 March 2020

Portfolio Committee on Higher education, Science and Technology

Honourable Chairperson of the Parliamentary Portfolio Committee and Honourable Committee Members

RE: URGENT DISMISSAL OF CHAIRPERSONS AND WASTEFUL EXPENDITURE ON LEGAL MATTERS

On 24 February 2021, the joint unions provided a presentation and highlighted some very serious issues including the dismissal of 2 union chairpersons which were both RULED UNFAIR by the Commission for Conciliation, Mediation and Arbitration. Both cases were heard at the CCMA and the CCMA made a clear ruling that the dismissals were UNFAIR. Both union chairpersons were awarded reinstatement but CPUT refuses to comply with the CCMA rulings. The only grounds for CPUT pursuing a Labour Court (LC) review of these two cases are based on revenge, hidden agendas and malice on the part of the CPUT Council and Executive Management (EM).

The CCMA case of the Chairperson of NTEU, Ms. Pike, was ruled as an unfair dismissal on 4 March 2020 and she was awarded reinstatement by the CCMA. The CCMA case of the Chairperson of CPUEU, Dr. Fagan, was also ruled as an unfair dismissal on 21 July 2020 and she was awarded reinstatement as well as backpay by the CCMA. CPUT spent hundreds of thousands of Rands in wasteful expenditure on the INTERNAL DISCIPLINARY process, the CCMA process and now the LC. All with public funds and zero accountability by CPUT.

These dismissals can only be seen as a malicious act by the Vice-Chancellor (VC), EM and Council of the University. All chairs went through comprehensive internal disciplinary hearings, where the Institution was represented by external qualified attorneys (Gavin Stansfield and Zola Mcaciso from Cliffe Dekker Hofmeyer) and an advocate (Veronique Barthus) of the Cape Bar. Moreover, **highly expensive** external chairpersons (from IR Change) presided over these hearings. Towards the end of the disciplinary hearings, CPUT moved their business from Cliffe Dekker Hofmeyer to a 'boutique law firm', Mcaciso Stansfield Inc (MS Inc) when the attorney on record started his own company MS Inc. This change was never disclosed and only noticed on the closing submissions. Alarming, one of the MS Inc. directors previously worked at CPUT as an ER manager. The Parliamentary oversight committee will notice that very specific legal representatives are used over and over. They are paid to effect the bad faith agendas of the VC, EM and the Council. So we have a situation where unethical legal practitioners are feeding and leeching from the coffers of CPUT, signed off by the VC, to pursue bad agendas and personal motives.

The questions must be asked: What process was used in appointing MS Inc, especially since one of the two Directors worked for the institution mere months before starting this company?

How much institutional and public money was paid to MS Inc, and all others involved in these hearings? Given that we are dealing with public funds, it MUST be investigated how much money has been wasted on pursuing blatant unfair dismissals against the chairpersons of trade unions?



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Costs include: -

1. **Initiator:**

Adv Veronique Barthus (advocate from the Cape Bar)

2. **Instructing attorneys:**

Mr Gavin Stansfield (attorney)*

Mr Zola Mcaciso (attorney)*

On point number 2 above, Mr. Stansfield and Mr. Mcaciso has been paid large undisclosed amounts of public funds for the internal disciplinary process, for the CCMA cases and also for the LC. It appears that no matter how many times the cases are won by the trade unions, CPUT's modus operandi is to appoint and pay these specific lawyers to keep the cases in the legal system. This means regardless of the outcome of the internal hearing, the CCMA or the LC, CPUT will pay these lawyers using public funds to go to the Labour Appeal Court (LAC), Supreme Court of Appeal (SCA) and Constitutional Court thereby draining the union funds, using delay tactics, wasting public funds and completely traumatising the trade union movement at CPUT.

3. **IR Change**

4. **Chairpersons:**

Mr. Melvin Nash (practising attorney)

Ms. Lillian Goredema (admitted attorney)

Ms. Athi Singh-Bhoopchand (attorney)

Who signed off on these expenses and what was the total costs for these disciplinary hearings, the CCMA costs, the LC costs? This unethical conduct by CPUT has to come to an end!

It must be highlighted again, the chairpersons of the unions in question were also employees of CPUT elected by employee members of the respective unions. The dire consequences are obvious, trade union leaders are being victimised, harassed, intimidated, bullied to the extreme and unfairly treated by attacking trade union leaders in their 'employee' capacity while charging them for work done in their 'trade union capacity'.

As this is a public institution, funded by the State, we ask for transparent leadership!

The wasteful expenditure did not stop at the internal disciplinary hearings. CPUT spent further university funds at the CCMA where MS Inc. once again represented the Institution at these separate arbitration hearings. Both Gavin Stansfield and Zola Mcaciso represented the Institution daily over several sessions.

How much money was paid to directors Gavin Stansfield and Zola Mcaciso (MS Inc), per day to run the hearings at the CCMA? Who signed off on these further expenses, CPUT council or the VC?



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Despite the dismissals declared unfair by the CCMA and reinstatement ordered, the University on the advice of MS Inc. took the matter on review to the LC. The very attorneys who are benefiting from huge unaccounted payments from public funds whether they win or lose. The pursue, advice and involvement to obtain a win at any costs have been relentless. Have they not wasted enough funds? Their conduct has been unprofessional, unethical, disingenuous, arrogant and not in the best interest of the University. An obvious attempt to tout for ongoing business. Sadly, the external lawyers have become HR.

The matter is now pending a set down date at the LC. It's been 12 months since the first CCMA award ordering reinstatement and nearly two years since the chairs were served with the charges (May 2019) and unfairly dismissed. The initial "council investigation" started in early 2018. This matter has been ongoing for more than 3 and a half years, with council turning a blind eye to the injustices and appeals from the union, seemingly not interested in learning the facts, blindly guided by external lawyers and internal motives.

CPUT is in no rush to have the matters settled and is using delay tactics to cause frustration to the labour movement, to spread fear by sending a warning message to unions and staff and to financially cripple the chairpersons, sparing no expenses with CPUT's unlimited budget. Despite the wasteful expenditure having a direct impact on salary increases.

The VC and Council dismally failed in their duty to protect the interest and property of the Institution when they allowed the Sheriff to attach goods in settlement of a Writ of Execution (see attached 'Sheriff – notice of attachment).

This led to a further **urgent application to the LC** made by Gavin Stansfield obo the Institution to set aside the writ of execution.

CPUT approved two further payments of over R3 320 000.00 **Three million three hundred and twenty thousand** Rand to Mcaciso and Stansfield Inc. as security deposits in September 2020 (proof can be provided).

Who approved these payments and from which budget/funds?

Shockingly, huge amounts of Institutional money are used to pay lawyers and most recently additional senior counsel for frivolous matters with little prospect of success. Millions of Rands being wasted on fruitless agendas.

The CPUT Council is directly involved in these cases and are failing in its duty to protect the interest of the Institution by not holding their Council Members and VC accountable. COUNCIL IS SEEMINGLY BEING MANAGED, rubberstamping decisions taken.

The commissioner eloquently summarised the council's role in one of the reinstatement awards,

"... In this regard therefore, I concur with the respondent's argument that even if it is found that the Council task team did not have the mandate to dismiss the applicant, **it is not in dispute that the Council is aware that she was dismissed for the charge in question.** There was no evidence to suggest that the Council takes issue with her dismissal. **If it has not raised any objections** or concerns pertaining to the task team's decision to dismiss the applicant,



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despite being aware of the decision, it should therefore be accepted that **Council supports** the decision.”

The VC (who supposedly recused himself) because of a conflict of interest in these matters is actively involved in approving the funding for CPUT’s actions against the trade union chairpersons while working behind the scenes and trying to give the impression that he is not involved.

The VC is approving funds to drive a personal agenda (without interrogation). This whole ordeal stems from a supposed leak of personal information during the VC appointment process and an article which supposedly exposed his psychometric tests, see [Facing Chris-icism: CPUT boss’s appointment questioned \(timeslive.co.za\)](https://www.timeslive.co.za/news/south-africa/2021/02/24/cput-boss-appointment-questioned/).

How can we idly sit and allow the Institutions coffers to be depleted, by irresponsible people driving personal battles with public funding?

Little regard has been given to Institutional policies. Council has been aiding the VC and EM in flouting the institutional policies!

The string of legal matters sadly does not end with the Chairpersons.

How much public funds were spent in settlement of the Octavia Mkhabela (Executive Director in the office of the VC) case where after years of battling CPUT lost, on the Gavin Solomons (Director protection services) case and the Nashira Abrahams case (former ER Director)?

How much money has been spent on CPUT failing to implement CCMA awards and honour LC awards and all other labour disputes?

We ask for an **urgent investigation** into the finances and mismanagement of the institution and resources.

The chairpersons did not leak any information and this continued attempt to victimise and harass our Chairs will not be tolerated, more so when public funds are used unethically. **We demand immediate reinstatement including any benefits lost from the date of dismissal.**

By bringing the details to your attention, we trust that the committee will see the seriousness of this matter and not be fooled by claims that all is well!

ALL IS NOT WELL AT CPUT!

Yours sincerely
CPUT Unions