



**ENSafrica**  
The MARC | Tower 1  
129 Rivonia Road Sandton  
Johannesburg South Africa 2196  
P O Box 783347 Sandton South Africa 2146  
Docex 152 Randburg  
tel +2711 269 7600  
info@ENSafrica.com

**Municipal Demarcation Board**

M Khoza/J Batt/D Engelbrecht/0498254 our ref

Attention: **Ms Mbali Myeni**

28 October 2021 date

Deputy Chairperson of the Board

Per e-mail: [molefemp15@gmail.com](mailto:molefemp15@gmail.com)

**DRAFT INVESTIGATION REPORT AND ADVICE IN RESPECT OF THE INVESTIGATION  
REGARDING THE ALLEGATIONS OF WRONGDOING AT THE MUNICIPAL  
DEMARCATIION BOARD**

**1. INTRODUCTION**

- 1.1. On the instructions of the Municipal Demarcation Board (“**the MDB**”), we, ENSafrica, conducted an investigation (“**the Investigation**”) concerning allegations of wrongdoing at the MDB. We were in particular required to investigate and enquire into whether a letter of complaint received is authentic and whether the authorship is acknowledged.
- 1.2. In the event of a negative finding, we were required to determine whether the relevant allegations will be worth pursuing any further.
- 1.3. In the event that the complaint is found to be valid and grounded, we were required to investigate and establish the following:

- 1.3.1. If it was correct for both the Chairperson and the CEO to contact the alleged complainant against the backdrop of the Extraordinary Board Meeting decision to investigate the allegations;
  - 1.3.2. If the actions by both the Chairperson and the CEO amount to intimidation; and
  - 1.3.3. If the sudden placement of the Company Secretary on Special Leave was not a ploy to either delay or subvert the implementation of the Extraordinary Board Meeting decision to appoint a service provider to investigate the veracity of the allegations levelled against the CEO.
- 1.4. We were further required, in particular, to conduct the investigation and to recommend the most appropriate, just and equitable action for the Board of the MDB in respect of the following:
- 1.4.1. whether the officials (mentioned in the complaint letter) had or conducted a love relationship with the CEO, in the event it is found that there was such a relationship, whether such employees entered into such relationship voluntarily or as a result of promises offered in exchange for promotional opportunities or any other undue benefit;
  - 1.4.2. whether, at any stage of such alleged relationship between the CEO and complainant, the parties had sexual intercourse in the office of the CEO (work premises) and/or in return offered a promise for promotion;
  - 1.4.3. whether the CEO had sexual intercourse with the Board Committee Officers;

- 1.4.4. whether the CEO solicited sexual favours from the Board Committee Officer and officials;
  - 1.4.5. whether the CEO impregnated both his former and current personal assistants;
  - 1.4.6. whether the CEO has sired a child with the “cleaning lady” at the second floor of the MDB;
  - 1.4.7. whether the CEO made a promise of permanent appointment to the cleaning lady;
  - 1.4.8. whether the CEO had made sexual advances or solicited sexual favours from any other employee/s with a promise of promotion;
  - 1.4.9. whether the CEO has made any contact with the alleged complainant and other alleged victims after he was advised by the Board not to make any contact with them;
  - 1.4.10. whether the CEO facilitated kickbacks (bribery) from the service provider of the leased building to pay for the lifestyle of the Chairperson of the MDB;
  - 1.4.11. whether the CEO acted in a manner that prejudiced the integrity or reputation of the Board; and
- 1.5. We were required to make findings, and recommend the most appropriate, just and equitable action/s for the Board of the MDB.

## 2. STATUS OF THE REPORT

- 2.1. This Report sets out our factual findings and recommendations arising from the Investigation. It includes summaries of the interviews and/or statements that were made with the relevant persons and the review performed in relation to the various documents furnished to ENSafrica.
- 2.2. Needless to say, the Investigation was based on the information provided by the persons we interviewed and the documents provided to us and is limited in scope in accordance with the instructions of the MDB.
- 2.3. Whilst ENSafrica has taken care to include all the crucial aspects of the contents of the interviews as well as the documents reviewed as part of the Investigation, this Report does not necessarily contain a full description of each interview conducted and documents reviewed and its purpose is to set out those issues which we consider to be material in the context of the relevant issues that are the subject of the Investigation.
- 2.4. Unless otherwise expressly agreed by ENSafrica in writing, no person, other than the MDB and its Board, is entitled to rely on this Report in making any decision, and we shall have no responsibility or liability whatsoever to any party who has access to, and uses this Report, whether such liability relates to any claim in contract, delict (including negligence), equity, criminal law or otherwise.
- 2.5. It is further recorded that this Report is strictly confidential and legally privileged, and may not be released to any person outside of the MDB, who has not signed an appropriate release letter in favour of ENSafrica.

### 3. **ASSUMPTIONS**

3.1. This Report has been prepared on the basis of, amongst others, the following assumptions:

- 3.1.1. any photocopies of documentation made available to us are complete and true copies of the originals;
- 3.1.2. any signatures thereon, if any, are genuine and authentic and were concluded under due and proper capacity, power and authority;
- 3.1.3. any copies of electronic communication provided to us were in fact sent and received and that the content thereof has not been altered in any way whatsoever;
- 3.1.4. the information, including numbers, reflected in the documents provided is accurate (we have not verified such accuracy independently nor have we sought to calculate what the correct numbers should be); and
- 3.1.5. the information provided by the persons we interviewed and documents provided by the MDB are all that is necessary in order to investigate the issues under Investigation or all that is in fact relevant and available.

### 4. **TABLE OF KEY TERMS AND PERSONS USED THROUGHOUT THE REPORT**

ITEM	TERM	DESCRIPTION
TERMS		

1.	The Board	The Board of the MDB
2.	CEO	Chief Executive Officer
3.	CFO	Chief Operating Officer
4.	MDB	Municipal Demarcation Board
5.	ENSAfrica	Investigators appointed by the MDB to conduct the investigation concerning allegations of wrongdoing at the MDB
6.	The Policy	Municipal Demarcation Board's Whistle Blowing Policy
<b>PERSONS</b>		
7.	Ms Mbali-Khoele	Ms Bulelwa Mbali-Khoele;  Alleged Complainant
8.	Mr Sigidi	Mr Muthotho Sigidi;  Chief Executive Officer
9.	Mr Manyoni	Mr Thabo Manyoni;  Chairperson of the Board
10.	Ms Myeni	Ms Mbali Myeni (formerly Molefe)  Deputy Chairperson of the Board
11.	Advocate Mapotse	Advocate Kgabo Mapotse;  Former Company Secretary

12.	Mr Xulu	Mr Ntuthuko Xulu  IT Manager of the MDB
-----	---------	---

## 5. DOCUMENTARY REVIEW AND ANALYSIS OF THE DOCUMENTS

5.1. For the purposes of the investigation, we have reviewed, amongst others, the following documentation:

- 5.1.1. Letter of Complaint received by the MDB;
- 5.1.2. Draft minutes of the Virtual In-Committee Board Meeting held on 12/07/2021;
- 5.1.3. Draft minutes of the Virtual In-Committee Board Meeting held on 17/07/2021;
- 5.1.4. Draft minutes of the Virtual In-Committee Board Meeting held on 23/07/2021;
- 5.1.5. Letters from Ms Pumla Nkosi Attorneys directed to the MDB;
- 5.1.6. Special Leave Notice of Advocate Kgabo Mapotse;
- 5.1.7. Notice of Withdrawal of Special Leave of Advocate Kgabo Mapotse;
- 5.1.8. Notice of Disciplinary Hearing of Advocate Kgabo Mapotse;
- 5.1.9. Bundle of Documents in the Disciplinary Hearing of Advocate Kgabo Mapotse;
- 5.1.10. Outcome of the Disciplinary Hearing of Advocate Kgabo Mapotse; and
- 5.1.11. Municipal Demarcation Board Whistle Blowing Policy (“**the Policy**”).

### **Whistle-Blower Policy**

- 5.2. The Policy provides for a wide scope whereby it is applicable to all members of the Board and employees of the MDB, consultants, independent contractors, agents as well as individuals who were former employees.
- 5.3. It is pertinent to note that in terms of the Policy, the term “*good faith*” is described as follows:

*““Good Faith” shall mean that the disclosure must be made with a reasonable belief that it is sustainably true and that the disclosure must not be made for personal gain” (underlining our own emphasis)*

- 5.4. The procedure that is provided for when there is a whistle-blower compliant is set out in clause 6 of the Policy, which stipulates as follows:
- 5.4.1. When handling a complaint, the action taken by the Board will depend on the nature of the concern. The complaints raised may, amongst other things:
- 5.4.1.1. be investigated internally;
  - 5.4.1.2. be referred to the SAPS or other relevant law enforcement agency; and/or
  - 5.4.1.3. be referred to the Audit and Risk Committee; and
  - 5.4.1.4. be dealt with as the Audit and Risk Committee as well as the Chairperson of the Board may deem appropriate.



- 5.4.2. In order to protect all parties concerned and the MDB, the initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take;
- 5.4.3. Allegations which fall within the scope of other procedures will normally be referred for considerations under those procedures;
- 5.4.4. Some concerns may be resolved by agreed action without the need for investigation;
- 5.4.5. The Audit and Risk Committee must within 21 days after a disclosure is made:
  - 5.4.5.1. Decide whether to investigate the matter or not; or to refer the matter to another person or body;
  - 5.4.5.2. Acknowledge in writing, that the disclosure has been received and informing the disclosing employee whether investigations will take place or not;
  - 5.4.5.3. Indicating how it proposes to deal with the matter and whether any initial enquiries have been made;
  - 5.4.5.4. Giving estimate, where possible, of how long it will take to conclude the investigation; and
  - 5.4.5.5. Informing them in writing, within 30 days, of the receipt of the report and what action, if any, being or has been taken in response.

- 5.5. The Policy makes provision for the conditions of anonymous allegations, which are set out as follows:
- 5.5.1. Employees are encouraged to put their names to allegations as disclosures expressed anonymously are difficult to investigate;
  - 5.5.2. Nevertheless, such anonymous disclosures will be followed up at the discretion of the Board.
  - 5.5.3. This discretion will be applied by considering the following:
    - 5.5.3.1. the seriousness of the allegation;
    - 5.5.3.2. the credibility of the facts and evidence in support of the allegation;
    - 5.5.3.3. the likelihood of confirming the allegation; and
    - 5.5.3.4. the prospects of succeeding if any action is taken.
- 5.6. Furthermore, the Policy provides for a procedure to be followed when there are untrue allegations and what the MDB must do. Clause 4.4 of the Policy provides for the following procedure:
- 5.6.1. Matters disclosed to the Board may require the MDB to investigate them and this often has great implications to the MDB in respect of costs and resources.
  - 5.6.2. Any person making a disclosure must guard against making disclosures which are false, while knowing them to be false and/or made in bad faith.

- 5.6.3. Where false allegations are discovered, the person who made the allegations will be subjected to firm disciplinary or other appropriate actions.

## 6. THE VERSION OF THE ALLEGED COMPLAINANT

- 6.1. The most appropriate starting point in dealing with the first leg of the Investigation would be to obtain the version of the alleged complainant, Ms Mbali-Khoele. We contacted and interacted with her regarding the issues relating to the Investigation, but later she was represented by a firm of attorneys, Louis H Dunn Attorneys who represented her in interactions with us, including in the presentation of her version of events.
- 6.2. The version of events that we obtained from Ms Mbali-Khoele was as follows:
- 1.5.1. She was employed at the MDB in 2014 on a six months contract. When the position of Stakeholder and Communications Specialist was advertised at the end of her 6 (six) months' contract, she applied for it and after a successful application she was then appointed into the position of Stakeholder and Communications Specialist until she left the MDB in December 2018.
- 6.2.1. In 2018, she applied for and was awarded a bursary by the MDB to fund her studies. She also received a job offer from her current employer. She was due to begin in November 2018, however, the MDB was busy preparing for its 20-year anniversary conference that was due to take place in January 2019. Since she was the primary organizer of the event from a communication, marketing, branding and

media perspective, a request was made to her new employer that she only begin work in January 2019.

6.2.2. This was agreed formally, and arrangements were made that she be compensated in line with the remuneration she would be getting at her new job. At that time, she was pregnant with her third child. When she left the employ of the MDB, a portion of the bursary was paid from her accumulated leave days. In relation to the balance, she signed an acknowledgement of debt with payment arrangements stipulated. Ms Mbali-Khoele informed us that this is on record at the MDB.

6.2.3. Ms Mbali-Khoele asserts that it came to her attention that rumours began to circulate shortly after she left the employ of the MDB, some of which included the following:

6.2.3.1. that the CEO, Mr Sigidi allowed her to leave the MDB without paying for the bursary because she was his girlfriend; and

6.2.3.2. that Mr Sigidi and Ms Mbali-Khoele were in a relationship and that a child was conceived as a result of that alleged relationship.

6.2.4. In relation to the above rumours, Mr Sigidi was then investigated by the Board and that investigation found that there was no real evidence to support the rumours.

6.2.5. Ms Mbali-Khoele emphasized that during the time of the investigation, no one from the MDB or any of the persons conducting the investigation contacted her to either verify or refute the allegations. She thus took issue with the fact that she was not afforded an

opportunity to express her side of the story, yet her name was being *“thrown around and severely tarnished.”*

- 6.2.6. Ms Mbali-Khoele asserts that in October 2020 she received a letter of demand, alleging that she had defaulted on her bursary re-payments. She indicated that the letter was physically dropped off at her residence by a driver employed by the MDB, which she signed for. It then came to her knowledge that the then Company Secretary, Advocate Mapotse had been assigned to take over the process of collecting the money owed to the MDB from her.
- 6.2.7. According to Ms Mbali-Khoele, she was informed that as per the Board resolution, the Company Secretary was taking over the matter, because the CEO, Mr Sigidi, was ostensibly conflicted. Ms Mbali-Khoele read the said Board resolution and it came as a surprise to her because she could not understand how the CEO could be conflicted. It did not make sense to her at that time, until recently when she got informed of the rumours at the MDB and this subsequent investigation.
- 6.2.8. On Friday, 13 August 2021, Ms Mbali-Khoele received a call from Mr Sigidi who wanted to know whether she knew anything that was transpiring at the MDB. Ms Mbali-Khoele told Mr Sigidi that she was not aware of anything. Mr Sigidi then proceeded to inform her of a whistle-blower e-mail with an attached letter dated 11 August 2021, that was purported to have been written by her and sent to numerous recipients, including the Presidency and the entire Board of the MDB. Ms Mbali-Khoele asserts that she was completely gob-smacked by this because she could not understand why her name *“was being*

*tarnished in such a fraudulent manner.*” Mr Sigidi then proceeded to inform her of the previous rumours and the internal investigation that had taken place the previous year.

- 6.2.9. On Thursday, 19 August 2021, Ms Mbali-Khoele received an e-mail from [thabo@demarcation.org.za](mailto:thabo@demarcation.org.za). There was no content in the body of the e-mail, and from the look of things she believes that it was just a forwarded e-mail with the attachment coming from e-mail address [mmatshiamo291@gmail.com](mailto:mmatshiamo291@gmail.com). It appeared to her that the e-mail had been sent to numerous individuals and signed off as “BULIE” and the accompanying letter was written as “LETTER OF COMPLAINT AS A FORMER COMMUNICATIONS SPECIALIST” and also signed off as “BULIE”. Ms Mbali-Khoele assumes that the e-mail address, [thabo@demarcation.org.za](mailto:thabo@demarcation.org.za), belongs to the Chairperson of the Board, which therefore supports her assumption that the Chairperson of the Board sent the e-mail to her because he believed that she is the BULIE who wrote the above mentioned e-mail and the letter of complaint.
- 6.2.10. On Sunday, 22 August 2021, the City Press published a report accusing Mr Sigidi of alleged sexual misconduct. The article also referred to extracts from the letter and went so far as to name the author of the letter as “BULIE”. The City Press article also claims to know the name of the author, but according to them, the ‘lady’ only wanted to be referred to as “BULIE”. Ms Mbali-Khoele informed us that she was never contacted by the City Press and questions who the City Press actually spoke to.

6.2.11. On Thursday, 26 August 2021, Ms Mbali-Khoele received a WhatsApp message from a former Board member, Mr Simphiwe Dzengwa who asked her whether she had seen the article.

6.3. In essence, therefore, Ms Mbali-Khoele denies being the author or sender of the letter of complaint, which is the subject of the Investigation. However, it would be remiss of us to simply rely on her denial to conclude that she was indeed not the author of the letter of complaint. This is more so given that she has indicated that she was contacted by persons from the MDB, including, the CEO and the Chairperson of the Board. We were duty bound to ensure that any denial of authorship is not in any way as a result of any form of intimidation and that it was in all material respects a genuine, reliable denial.

6.4. We therefore had to perform various independent factual and forensic verification exercises to ensure that Ms Mbali-Khoele was in fact not the author of the letter of complaint.

6.5. In paragraph 8 hereof, we set out the procedures undertaken in the above mentioned independent factual and forensic verification exercises.

## **7. FURTHER INTERVIEWS CONDUCTED**

7.1. The manner in which the Terms of Reference for the Investigation were formulated was that we first had to determine whether the authorship of the letter of complaint was acknowledged and whether the authenticity was proven. It was only if we found that there is an acknowledgement of authorship of the letter of complaint, and that it was authentic, were we supposed to probe further into the substance of the allegations set out in the letter of complaint.

- 7.2. Part of the Terms of Reference or the aspects which had to be investigated if the letter of complaint was found to be authentic was whether the contact that was made by the Chairperson of the Board, Mr Manyoni and the CEO of the MDB, Mr Sigidi amounted to the intimidation of the alleged complainant. Accordingly, the assessment of whether the contact made by the Chairperson and the CEO to the alleged complainant was appropriate, would under normal circumstances have only been necessary if we found that the authorship of the letter of complaint was acknowledged and that the letter of complaint itself was authentic.
- 7.3. In light of our finding as set out in the analysis section in paragraph 9 hereof, to the extent that the letter of complaint did not in fact emanate from Ms Mbali-Khoele, ordinarily we would not enquire into the appropriateness of the contact made by the Chairperson and the CEO to the alleged complainant. However, given that the alleged complainant vehemently denies being the author of the letter of complaint, and given that we were made aware during the course of the Investigation that the Chairperson and the CEO did in fact contact the complainant at some stage after the letter of complaint was received, it will be remiss of us to simply conclude that the letter of complaint was not authentic without considering whether the denial by Ms Mbali-Khoele was itself not induced or influenced by intimidation.
- 7.4. Accordingly, we arranged and held interviews with both the Chairperson and the CEO.
- 7.5. **Interview with the Chairperson, Mr Manyoni**
- 7.5.1. During our interview with the Chairperson, he explained the context of the contact that he had made to Ms Mbali-Khoele on 17 August 2021, stating that he had not known Ms Mbali-Khoele because at the time



that Ms Mbali-Khoele left the employ of the MDB, he, the Chairperson, was not even part of the Board of MDB.

- 7.5.2. He was therefore taken aback that there was a reference to “*the Chairman of MDB Mr Thabo Manyoni*” in the allegations set out in the letter of complaint. Due to the fact that he was aggrieved by the accusations and the insinuations related to him in the letter of complaint, he therefore intended to take legal action against the person making the allegations, which he considered and still considers, to be false against him.
- 7.5.3. He explained that he obtained the contact details of Ms Mbali-Khoele and telephonically contacted her for the purposes of ascertaining her addresses to which the attorneys, that would be appointed by the Chairperson, would address correspondence as part of the Chairperson seeking to protect his rights, which he considered were being infringed by the allegations made against him (which he maintained were false). The Chairperson also asked Ms Mbali-Khoele to verify her e-mail address, which she verified as [bulirato@gmail.com](mailto:bulirato@gmail.com).
- 7.5.4. The Chairperson explained that Ms Mbali-Khoele sounded completely confused as to what the Chairperson was talking about but, ultimately, Ms Mbali-Khoele denied ever having been part of making any of the allegations that the Chairperson was referring to during the telephone call. The Chairperson explained that given the denial by Ms Mbali-Khoele that she was the one who was behind the letter of complaint, he did not have reason to institute any further legal proceedings against her and he therefore did not pursue the matter further.

7.5.5. This version by the Chairperson is somewhat consistent with the version given to us by Ms Mbali-Khoele of a telephone call that she received on 17 August 2021. During our interactions with Ms Mbali-Khoele, she did not wish to disclose who the person that contacted her on that day was, however, in our analysis, and based on the totality of the facts before us, we conclude that this person must have been the Chairperson of the Board. The content of the conversation between them is largely consistent.

**7.6. Interview with the CEO, Mr Sigidi**

7.6.1. During our interview with the CEO, he had a lot to say about what he considered to have been a consistent mistreatment arising out of sporadic allegations made against him, which have been investigated and, according to him, found to have no substance in the past.

7.6.2. The CEO appeared particularly concerned that the Board was prepared to investigate all allegations even in circumstances where there is no suggestion that such allegations are coming from a credible source. He stated that this had a huge impact on him and the performance of his duties as it was distracting him from executing his mandate in the interest of the MDB. He explained that after he was informed of the existence of the complaint against him, he was obviously outraged by the nature of the allegations. He explained that he was told that the allegations were made by a person named “Bulie” and that, in his recollection, there was only one “Bulie” who had worked for the MDB, being Ms Mbali-Khoele.

- 7.6.3. He explained that he then sought to obtain the contact details of Ms Mbali-Khoele for the purposes of ascertaining whether she was indeed behind the allegations made against him. The CEO explained that similar allegations had been made in 2020 which were investigated and found to be without substance. He explained that Ms Mbali-Khoele denied being the author of the letter of complaint and that she, in fact, was very aggrieved by the fact that there were these consistent allegations being made involving her name.
- 7.6.4. The CEO explained that in light of the denial by Ms Mbali-Khoele of being the author of the letter of complaint, it became clear to him that the letter of complaint had been compiled by someone who had set out to tarnish his name and to negatively affect his career prospects at the MDB, including preventing the renewal of the CEO's contract which is up for renewal. The CEO explained that this was particularly concerning given what he considered to have been a very good performance over the past years and that the Board was prepared to give credence to allegations of this nature and even investigate them, despite there being no proper basis for them.
- 7.6.5. It is not necessary for us to go into much detail of the information relayed to us by the CEO, but what was clear was that he believed that there was a clear plot against him driven by, amongst others, the former Company Secretary, Adv. Mapotse, with whom he had clashed over some performance of duties.
- 7.6.6. The CEO, in particular, made reference to the instance relating to the lease agreement that the MDB is party to for its offices. He relayed

the information relating to how he had altered the decision of the BAC when the BAC had recommended the appointment of a service provider who would have cost the MDB approximately R25 000 000.0 (twenty five million rand) for office accommodation in circumstances where the MDB only had a budget of approximately R19 000 000.00 (nineteen million rand). The CEO explained how, ultimately, a service provider who charged approximately R16 500 000.00 (sixteen million five hundred thousand rand) was ultimately appointed after his intervention.

- 7.6.7. The CEO explained that his intervention in relation to the lease agreement may have angered some people who had an interest in the appointment of a service provider that would have charged the MDB way above the budgeted spending and significantly way above what the MDB is currently paying. In all, the CEO stated, as a result of his intervention, that the MDB saved approximately R3 500 000.00 (three million five hundred thousand rand) on office accommodation costs.

## **8. INDEPENDENT FACTUAL AND FORENSIC VERIFICATION EXERCISES**

- 8.1. On 21 September 2021, the MDB provided authority and access to acquire evidence from computers, Mimecast archives and its servers related to two individuals we had identified, namely Ms Mbali-Khoele and Adv. Mapotse. Adv. Mapotse became a person of interest in the investigation given this apparent animosity that existed between him and Mr Sigidi and the fact that the data we had obtained indicated that he had forwarded the e-mail with the letter of complaint. Ms Mbali-Khoele had left the MDB's employment in December 2018

and Adv. Mapotse's contract of employment terminated with effect from 1 September 2021.

## **8.2. Data available for Ms Mbali-Khoele**

8.2.1. As Ms Mbali-Khoele had left the MDB's employment in 2018, the computer she had used during her employment had been formatted and reallocated to another employee of the MDB. Mr Xulu advised that Ms Mbali-Khoele had used two devices while employed at the MDB, one of which was no longer working and the other had been reallocated in 2018. According to Mr Xulu, when an employee leaves the MDB, their computer is formatted and its operating system is re-installed for the new user/employee.

8.2.2. He also stated that no backups were made of the previous employee's data (files or e-mail communication). We could therefore not forensically image any devices used by Ms Mbali-Khoele for these reasons.

8.2.3. Mr Xulu indicated that the MDB only started using Mimecast in April 2020 and accordingly, there was no Mimecast archive for Ms Mbali-Khoele either. There were also no files on the MDB's servers for Ms Mbali-Khoele, but Mr Xulu was able to provide us with the PST<sup>1</sup> file for her, which had been stored after she left the MDB's employ.

## **8.3. Data and device available for Adv. Mapotse**

---

<sup>1</sup> A PST file is a "personal storage table", which is a file format Microsoft programs use to store items like calendar events, contacts, and e-mail messages. PST files are stored within popular Microsoft software like Microsoft Exchange Client, Windows Messaging, and Microsoft Outlook.

- 8.3.1. On 23 September 2021, the MDB provided the laptop which had been allocated to Adv. Mapotse:
- 8.3.2. Dell Inspiron 15 laptop (serial number: 2152ST1).
- 8.3.3. This was the laptop that Adv. Mapotse used before he left the MDB's employ. Mr Xulu indicated that although this device had been reallocated to another employee, it had not been formatted and, accordingly, Adv. Mapotse's profile was still available on the laptop. We were informed that the reallocation had only happened the previous week, on 17 September 2021.
- 8.3.4. The Mimecast archive for Adv. Mapotse was extracted and downloaded with Mr Xulu's assistance. We were also able to extract the available files from the MDB's server for Adv. Mapotse.

#### 8.4. Additional Mimecast Searches

- 8.4.1. We conducted the following keywords searches on the MDB's Mimecast archives, in addition to the extraction of Adv. Mapotse's archive:

Search term	Number of files found
<i>"bulelwa@demarcation.org.za"</i>	2239
<i>"mmatshiamo291@gmail.com"</i>	2
<i>"Tshiamo Mmangwato"</i>	31

- 8.4.2. Mr Xulu again assisted us with the extraction of the files identified as part of the searches conducted.

## 8.5. Processing of Data

- 8.5.1. Two copies of the forensic images were created, labelled the “Master” and “Working” copies. The Master copies were sealed and securely stored. The Working copies were used for further analysis.
- 8.5.2. A recovery process was executed on the computer images to recover deleted files or lost folders, where possible. The active (current) and recovered data was then used for analysis.
- 8.5.3. All data (including recovered data) was extracted and indexed into a searchable format. The indexed data included all e-mails found on the computer imaged, the PST file, Mimecast archive files downloaded and the files extracted from the MDB’s server. The indexed data, referred to as the dataset, was analysed using keywords as mentioned in paragraph 8.8.1 below.

## 8.6. Analysis of the original e-mail from *mmatshiamo291@gmail.com* and its attachment (Exhibit 1 and 2, respectively)

- 8.6.1. We analysed the e-mail from “*mmatshiamo291@gmail.com*”, dated 11 August 2021, which had the complaint against Mr Sigidi attached, in PDF format. The header of this e-mail indicated that Google was listed as the internet service provider and the IP<sup>2</sup> address was listed as

---

<sup>2</sup> An IP address is an unique address that identifies a device on the internet or a local network. IP stands for "Internet Protocol," which is the set of rules governing the format of data sent via the internet or local network.

209.85.210.65. We were, however, unable to verify the owner of the said IP address.

8.6.2. We also analysed the PDF attachment in an attempt to establish the author of the complaint. The file properties of this document indicated that the document was saved in Word format before it was converted to PDF. Unfortunately, no further information was available in the metadata<sup>3</sup> of the attachment and we were not able to identify the author's details. The metadata confirmed that the attachment was created on 11 August 2021 at 11:59AM.

8.6.3. We furthermore checked for any document with the name: *"WHISTLEBLOWER LETTER TO MDB BOARD MEMBERS ABOUT SEXUAL HARASSMENT AT MDB .docx"* on the forensic image of Adv. Mapotse's device but we did not find any. Additionally, we also checked the following keywords across the forensic image:

8.6.3.1. *"gmail.com"*;

8.6.3.2. *"mmatshiamo291@gmail.com"*; and

8.6.3.3. *"Tshiamo Mmangwato"*.

8.6.4. From the searches, as well as checks on the internet activity, files opened, downloaded files deleted etc. on Adv. Mapotse's device on 11 August 2021, we did not identify evidence to indicate that this device was used to send, upload or draft the complaint sent on 11 August 2021 at 12:29PM.

---

<sup>3</sup> Metadata is defined as the data providing information about one or more aspects of other data; it is used to summarise basic information about data which can make tracking and working with specific data easier.



## 8.7. The MDB's Firewall Report

- 8.7.1. We requested that Mr Xulu obtain a report from the MDB's firewall services provider (Vox Telecom) which would indicate any traffic through the MDB's firewall on 11 August 2021.
- 8.7.2. These details could potentially indicate whether any MDB employee making use of the MDB's network had accessed the Gmail account from which the complaint had been e-mailed, namely [mmatshiamo291@gmail.com](mailto:mmatshiamo291@gmail.com) and could, accordingly, be the author and/or origin of the complaint.
- 8.7.3. Unfortunately, the report that Vox Telecom provided, only contained a high-level overview of the traffic through the firewall and did not provide any detail of the user devices (desktop, laptop or mobile device) of MDB employees.
- 8.7.4. After various discussions with Mr Xulu and Vox Telecom, we were granted limited access to the online firewall platform to conduct searches on the traffic logged on MDB's firewall. We found that on 11 August 2021, between 12:00 and 12:30, ten (10) internal MDB IP addresses were logged as having accessed Gmail through the firewall. When a device accesses MDB's network, it is assigned an internal IP address while it is connected to the network.
- 8.7.5. It is these internal IP addresses that are captured in the firewall platform's logs. Unfortunately, MDB's firewall was not set up to indicate which internal IP address had been allocated to an actual user device in the firewall logs. However, usually, corporations' IT

departments have records of which user device was allocated an internal IP address at a specific date and time. These records are kept to ensure that the company can track and audit a user device's activity on its network.

- 8.7.6. We provided Mr Xulu with the ten (10) internal IP addresses as well as the time period (11 August 2021 between 12:00 and 12:30), to advise which user devices had been allocated these internal IP addresses. We hoped to establish whether any MDB employees accessed Gmail during this period, by identifying which user devices had been allocated these internal IP addresses.
- 8.7.7. Mr Xulu advised that due to the amount of time that has passed, the MDB's IT department did not have these records anymore. He also advised that the MDB uses Dynamic Host Configuration Protocol (DHCP) to allocate the IP addresses, which means that the internal IP addresses are automatically assigned to each user device when it connects to the MDB network.
- 8.7.8. Accordingly, we were not able to obtain the details of the MDB employees who accessed Gmail at the specific date and time. It should be noted that the records of the allocated internal IP addresses are kept for less than two months by the MDB's IT department. This could be considered a risk to the MDB, as it limits the organisation's ability to review and audit user device activity on its network.

## 8.8. Keyword Analysis of the Processed Data

8.8.1. Once the data had been processed and indexed, we reviewed the dataset in a readable format using the Intella e-Discovery platform. A total of 382,646 files were identified and attributable to the two individuals. A list of the keywords is set out in Table 1 below:

**Table 1: Incidence of keywords in the digital data provided to ENSafrica**

2. Keyword
<i>"tshiamo mmangwato"</i>
<i>"mmatshiamo291@gmail.com"</i>
<i>"Bulelwa Mbali-Khoele"</i>
<i>"Bulie"</i>
<i>"bulirato@gmail.com"</i>
<i>"sexual intercourse"</i>
<i>"promotion"</i>
<i>"sleep with the CEO"</i>
<i>"sleep with Muthotho"</i>
<i>"sleep with Mr Sigidi"</i>
<i>"child out of wedlock"</i>
<i>"sexual favors" OR "sexual favours"</i>
<i>"bragged"</i>
<i>"kickbacks"</i>

2. Keyword
<i>“rental lease”</i>
<i>“rented place”</i>
<i>“HOD allowance”</i>

8.8.2. We only comment on the e-mails and documents obtained as part of the review to the extent that the information provided in these e-mails and/or documents are relevant.

8.8.3. We identified the following documents and correspondence pertinent to the events and the allegations against the MDB’s CEO, Mr Sigidi, which is tabulated below for ease of reference:

No	Date	Document	Exhibit
1	11 August 2021	<p><b>E-mail from “<i>mmatshiamo291@gmail.com</i>” to various individuals, including Adv Mapotse</b></p> <p>An e-mail purportedly sent from someone called “Bulie” (from e-mail address “<i>mmatshiamo291@gmail.com</i>”) was sent to the President of the Republic of South Africa, the Minister of COGTA and the Board of directors of MDB. In the e-mail, the writer made allegations of irregular actions against</p>	<b>Exhibit 1</b>

No	Date	Document	Exhibit
		<p>the MDB's CEO, who had allegedly abused his authority.</p> <p>The writer requested that the President and the Minister assist them as they have been left destitute by "these men in our society".</p> <p>The writer requested that the President looks into the matter and end the culture at the MDB.</p> <p>Attached to the e-mail is a PDF document that set out the allegations against the MDB's CEO. Our checks and analysis were unable to identify the author and/or origin of this e-mail.</p>	
2	11 August 2021	<p><b>The document entitled "LETTER OF COMPLAINT AS A FORMER COMMUNICATIONS SPECIALIST"</b></p> <p>Attached to the abovementioned e-mail was a PDF, in which the writer (again referred to as "Bulie") indicated that they wanted to bring the following allegations against the MDB's CEO, Mr Sigidi. In the document, the writer indicated that:</p>	<b>Exhibit 2</b>

No	Date	Document	Exhibit
		<ul style="list-style-type: none"> <li>• The writer and Mr Sigidi had sexual intercourse in the CEO's office based on a promise that the writer would get promoted to Senior Manager Communications. The result thereof was that the writer became pregnant and gave birth to Mr Sigidi's child. The writer was forced to leave the MDB's employment and claimed that Mr Sigidi was refusing to pay child support.</li> <li>• Mr Sigidi was having sexual relations with an MDB Board member, from which another child was born. The writer also claimed that the CEO was sexually harassing this Board member which was indicative of the culture at the MDB, in that Mr Sigidi constantly requested sexual favours from the MDB officials.</li> <li>• Mr Sigidi had impregnated his former and current personal assistants and that the two were currently expecting children, fathered by Mr Sigidi.</li> <li>• Mr Sigidi impregnated a member of the cleaning staff at the MDB's office on the</li> </ul>	

No	Date	Document	Exhibit
		<p>promise that he would arrange a permanent contract for her. The writer alleged that Mr Sigidi was also not paying child support to this member of the cleaning staff. The writer also claimed that there were only a few female employees at the MDB, with whom the CEO had not had sexual intercourse with.</p> <ul style="list-style-type: none"> <li>• Mr Sigidi was boasting about the HOD allowance he was receiving from the MDB (allegedly R1 million), which was obtained with the assistance of the MDB's Chairperson, Mr Manyoni. The writer alleged that the Chairperson assisted Mr Sigidi, due to the CEO facilitating tender kickbacks (from a rental lease) to Mr Manyoni to fund the Chairperson's lifestyle.</li> <li>• The writer indicated that they had pleaded with Mr Sigidi to pay the child support due and even threatened to leave the child at the MDB's office. The writer referred to the CEO as a "sexual predator" and requested assistance from the government. Failing this, they would take</li> </ul>	

No	Date	Document	Exhibit
		<p>the matter to other political parties and the President.</p> <ul style="list-style-type: none"> <li>The writer requested protection from Mr Sigidi and indicated that he was a violent person and that DNA and paternity tests could be conducted, in order to prove that Mr Sigidi was the father of the children in question.</li> </ul> <p>Our checks and analysis were unable to identify the author and/or origin of this document.</p>	
3	26 August 2021	<p>E-mail from “<i>mmatshiamo291@gmail.com</i>” to various individuals, including Adv. Mapotse</p> <p>In response to a letter from the MDB’s Deputy Chairperson, the individual called “Bulie” (now also called “ANONYMOUS WHISTLEBLOWER”) acknowledged receipt of the MDB’s letter, regarding the investigation into the matter. The writer, however, expressed their apprehension</p>	<b>Exhibit 3</b>



No	Date	Document	Exhibit
		<p>about how the matter had been handled and stated that:</p> <ul style="list-style-type: none"> <li>• Mr Manyoni had contacted the writer and threatened that they should not proceed with the complaint;</li> <li>• Similarly, Mr Sigidi contacted the writer and also intimidated them, while with their husband. The writer indicated that they would not participate or cooperate with the investigation as this would end their marriage.</li> </ul> <p>The writer also expressed concerns that they were made to prove that they were the victim of a sexual crime. The writer requested that the Chairperson and CEO ceased communication with them as they were still healing from the traumatic experience while trying to move forward with their life.</p>	

8.8.4. This was the only communication from “*mamatshiamo291@gmail.com*” in the dataset and we were unable to verify the author or origins of these e-mails and documents.

8.8.5. Our keyword analysis identified that similar allegations had been made against Mr Sigidi in 2020:

No	Date	Document	Exhibit
4	9 April 2020	<p><b>E-mail from Adv. Mapotse to “<i>koenapphukubye@gmail.com</i>”</b></p> <p>Adv. Mapotse sent a PDF document to “<i>koenapphukubye@gmail.com</i>” and indicated that the document was “FYI”.</p> <p>The PDF document attached was called “<i>CONFIDENTIAL_Whistleblower Complain Letter 19_03_2020</i>”.</p>	Exhibit 4
5	19 March 2020	<p><b>The document entitled “CONFIDENTIAL_Whistleblower Complain Letter 19_03_2020”</b></p> <p>Attached to the abovementioned e-mail was a PDF document, addressed to Mr Manyoni and copied the MDB’s Chairperson of the Audit Committee. In the document, the writer/s claimed to be MDB employees, who wished to remain anonymous. In the document, the following allegations were made:</p> <ul style="list-style-type: none"> <li>• Ms Mbali-Khoele’s leave days were withheld by the MDB’s HR Department upon her (Ms Mbali-Khoele) resignation, as she owed the MDB approximately R33,000 for a study bursary.</li> </ul>	Exhibit 5

No	Date	Document	Exhibit
		<ul style="list-style-type: none"> <li>• According to the writer/s, Ms Mbali-Khoele approached the CEO to release the funds, which he allegedly did. According to the writer/s, the MDB was still attempting to recover these “embezzled funds”. The writer/s also indicated that there was a rumour that Ms Mbali-Khoele and Mr Sigidi had a romantic relationship, which resulted in Ms Mbali-Khoele giving birth to Mr Sigidi’s child.</li> <li>• The writer claimed that Mr Sigidi had appointed his personal assistant in the position of Communication Specialist after Ms Mbali-Khoele (who was referred to as Mr Sigidi’s “Baby Mama”) resigned from the MDB. The writer/s claimed that the proper recruitment process had not been followed. The writer/s also indicated that there had been instances of favouritism and that the CEO had made himself guilty of appointing his friends.</li> <li>• The writer/s claimed that the CEO, CFO and the Supply Chain Specialist conspired to circumvent the PFMA to ensure that the</li> </ul>	

No	Date	Document	Exhibit
		<p>MDB's lease contract was entered into for the personal benefit of the aforementioned individuals.</p> <p>Our checks and analysis were unable to identify the author/s and/or origin of this document.</p>	

8.8.6. We could not find any further communication in the dataset relating to these allegations to date.

8.8.7. Additionally, we identified documents and correspondence regarding the following:

No	Date	Document	Exhibit
6	19 August 2021	<p><b>E-mail from Mr Manyoni to “<i>bulirato@gmail.com</i>”</b></p> <p>The MDB's Board members responded to the complaint and seemed to have set up an urgent meeting on 12 August 2021. As part of this correspondence, we found that on 19 August 2021 at 08:28AM, Mr Manyoni sent the original e-mail and its attachment to “<i>bulirato@gmail.com</i>”. There was no further information in the e-mail and it appears that the complaint</p>	<b>Exhibit 6</b>

No	Date	Document	Exhibit
		<p>document was just forwarded to the recipient.</p> <p>Our analysis has found that the above e-mail address appeared to belong to Ms Mbali-Khoele. This was the e-mail address she used to communicate with the MDB regarding the acknowledgement of debt and the repayment of the bursary payment (see below). Also, as indicated above in the version obtained from Ms Mbali-Khoele, she did mention that on 19 August 2021 she had received an e-mail from thabo@demarcation.org.za, which she believed belonged to the Chairperson of the Board. The information at our disposal therefore does indicate, on a balance of probabilities, that the Chairperson of the Board did make contact with Ms Mbali-Khoele, as the alleged complainant, on 19 August 2021.</p>	
7	August 2021	<b>Mr Sigidi's response to the allegations of 11 August 2021</b>	<b>Exhibit 7</b>

No	Date	Document	Exhibit
		<p>In the document (just dated “August 2021”), Mr Sigidi responded to the allegations of the document dated 11 August 2021. In summary, he stated the following:</p> <ul style="list-style-type: none"> <li>• He denied the allegations and indicated that he did not have any knowledge thereof and placed the allegations to the writer of the complaint, to prove.</li> <li>• Mr Sigidi also chastised the MDB Board for not following the correct process in addressing the allegations made against him and not conducting a preliminary investigation into the allegations to establish the veracity thereof as well as confirming the authenticity of the document.</li> <li>• He also indicated that similar allegations had been made previously, had been investigated and the allegations were found to be baseless.</li> </ul>	

No	Date	Document	Exhibit
		<ul style="list-style-type: none"> <li>• According to Mr Sigidi, he believed that the source of the allegations was Adv. Mapotse, stemming from the animosity between them, as Mr Sigidi had refused to authorise specific expenditure which allegedly infuriated Adv. Mapotse. Mr Sigidi stated that Adv. Mapotse repeatedly told him “<i>Do not poke the bear</i>”.</li> <li>• In conclusion, Mr Sigidi believed that the decision to investigate the allegation was the MDB Board’s attempt to find justification not to renew his contract and to discredit the Chairperson. He also indicated that he had taken legal advice and was “<i>tired</i>” of Adv. Mapotse’s behaviour.</li> <li>• He also recommended that the Board consider inviting Ms Mbali-Khoele to attend an MDB Board meeting to discuss the allegations and document. He also expressed his disappointment in the Board’s actions and the fact that</li> </ul>	

No	Date	Document	Exhibit
		<p>he was constantly being investigated based on rumours and gossip.</p> <p>The document was comprised of 29 pages and went into significant detail about the actions of Adv. Mapotse and included extracts from e-mail correspondence.</p>	
8	N/A	<p><b>Correspondence regarding HOD allowance</b></p> <p>We found extensive correspondence and documents related to Mr Sigidi's application for the MDB Board's approval for a 10% HOD allowance, which appears to have been opposed by various individuals in the MDB.</p>	N/a
9	N/a	<p><b>Correspondence regarding the repayment of Ms Mbali-Khoele's bursary</b></p> <p>We found correspondence and documents related to an amount of R37 214.97, which Ms Mbali-Khoele owed to the MDB in respect of a bursary payment.</p>	N/a



No	Date	Document	Exhibit
		On 1 December 2020, Ms Mbali-Khoele signed an acknowledgement of the debt owed to the MDB, which included a repayment agreement for the period between 1 December 2020 and December 2023, paying a monthly instalment of R1 000, until the full amount is settled (including the interest at a rate of 10% per annum).	

## 9. ANALYSIS OF THE FACTS AND FINDINGS

- 9.1. The first leg of the investigation is to analyse whether authorship of the letter of complaint received is acknowledged and whether it is authentic.
- 9.2. Given that some of the results in the forensic searches we have conducted is outstanding, we provide the following analysis and findings relating to the first leg of the Investigation.

### **Whether the authorship is acknowledged and whether the complaint is valid**

- 9.3. As it would be evident from the version provided by Ms Mbali-Khoele, as set out above, she denies having any involvement in the production of the letter of complaint. As indicated above, it would be inappropriate and remiss to conclude that Ms Mbali-Khoele was not involved in the drafting of the letter of complaint based solely on the fact that Ms Mbali-Khoele denies being the author of the letter

of complaint. Given the suggestion of some form of intimidation having taken place, the analysis needs to be based on independently verifiable data and information. This is to ensure that the denial by Ms Mbali-Khoele is not ultimately informed by the alleged intimidation.

- 9.4. Given the varying versions of those involved in the factual events, and without any tangible conclusive evidentiary material, the analysis has to be done on what is likely the true state of affairs, based on a balance of probabilities. The nature of this report does not justify an extensive exposition of the relevant legal principles relating to the test of balance of probabilities but the test is well established in our law. In *In re H (Minors)*,<sup>4</sup> Lord Nicholls, writing for the House of Lords, explained that the test was a flexible test. He aptly put it as follows:

*"The balance of probability standard means that a court is satisfied [that] an event occurred if the court considers that, on the evidence, the occurrence of the event was more likely than not... Built into the preponderance of probability standard is a generous degree of flexibility in respect of the seriousness of the allegation. Although the result is much the same, this does not mean that where a serious allegation is in issue the standard of proof required is higher. It means only that the inherent probability or improbability of an event is itself a matter to be taken into account when weighing the probabilities and deciding whether, on balance, the event occurred..."*

- 9.5. In *Miller v Minister of Pensions*<sup>5</sup> Denning J said "[i]f the evidence is such that the tribunal can say 'we think it more probable than not' the burden is discharged,

---

<sup>4</sup> [1996] AC 563 at 586.

<sup>5</sup> [1947] 2 All ER 372).

*but if the probabilities are equal it is not.*” The test we apply in our analysis exactly that. The enquiry we conduct is whether it is more likely than not that Ms Mbali-Khoele was involved in the authorship and distribution of the letter of complaint. In our considered view, the relevant test in our law amounts to this: if the trier of fact finds it more likely than not that something did take place, then it is treated as having taken place. If he finds it more likely than not that it did not take place, then it is treated as not having taken place. The “likelihood” or “unlikelihood” must however be based on some objective facts or basis.

- 9.6. To date, the analysis of the dataset has not provided any evidence which could verify the author(s) and origin(s) of the complaints made against Mr Sigidi.
- 9.7. Our reviews to date have found no evidence to indicate that Ms Mbali-Khoele was the author of the e-mail and the letter of complaint.
- 9.8. Our reviews to date have found no evidence to indicate that Adv. Mapotse was the author of the e-mail and the letter of complaint.
- 9.9. The complaint was made in the name of “Bulie” who was assumed to be Ms Mbali-Khoele. The latter has however denied authorship of the letter of complaint. We also found no evidence through the veracity and authenticity checks to suggest that Ms Mbali-Khoele is the author of the letter of complaint. We have already stated above, and cannot stress it enough that the mere denial by Ms Mbali-Khoele cannot be decisive of this issue.
- 9.10. However, some independent objective facts also appear to support Ms Mbali-Khoele that she was not the author of the letter of complaint. These include the following:

- 9.10.1. The tone and theme of the letter of complaint seem to be in line with the earlier anonymous whistle-blower complaint of 2020. Part of the allegations in 2020 are suggestive of Mr Sigidi having done things in a manner that sought to protect Ms Mbali-Khoele at the expense of the MDB. These included him allegedly ordering the processing of leave pay that had been withheld from Ms Mbali-Khoele as security for the amount that she owed the MDB for the bursary previously awarded;
- 9.10.2. It is, on a balance of probabilities unlikely that Ms Mbali-Khoele would be party to such allegations, which included the alleged favours done towards her by Mr Sigidi. We find that, on a balance of probabilities, the author/s of the previous complaint and allegations is/are the same as the authors of the letter of complaint forming part of this Investigation. In light of this, it would also be unlikely that Ms Mbali-Khoele would have authored the letter of complaint of August 2021.
- 9.10.3. The letter of complaint itself is sent from an e-mail address that is not a known e-mail address of Ms Mbali-Khoele. This is difficult to reconcile with the fact that the author appended her name as “Bulie” in the letter of complaint. Even in the e-mail dated 26 August 2021, that was addressed to the Deputy Chairperson of the Board, the author identified her/himself as “Bulie”. If Ms Mbali-Khoele was as open about her identity as indicated at the end of the e-mail under cover of which the letter of complaint was sent and also in the e-mail of 26 August 2021, it begs the question as to why she would then want to use a different e-mail from her known e-mail address. It is also preposterous that Ms Mbali-Khoele would describe herself as an ‘*anonymous*

*whistle blower'* but then use her actual name that was known at the MDB at the end of the e-mail.

- 9.10.4. In the e-mail to which the letter of complaint was attached, the author states the following:

*"Its with a heavy heart that i must write this letter during a women's month where by other women a celebrated, and we are sitting with a challenge of having to look after our children with their absent fathers who don't want to take responsibility of their children as a results of their father misuse of his authority as a CEO that the state has placed upon him."*

- 9.10.5. Our background searches have found that Ms Mbali-Khoele is listed as married on public databases. We also accessed information that strongly suggested that she stays at the same address and shares contact numbers with a Mr Lerato Goodwill Khoele (ID: 7902035527084). Although we could not find an ante nuptial contract or any other confirmation on their marriage, it is fair to assume that with the shared details (including the hyphenated surname), that this is Ms Mbali-Khoele's spouse. In light of this, we find it unusual and not consistent with common human experience that a supposedly married female who stays with a spouse would be complaining publicly about a male, that is not her official partner, not taking responsibility for her child.

- 9.10.6. Finally, Ms Mbali-Khoele left the employ of the MDB on 31 December 2018, prior to the current Board being appointed and prior to the Chairperson being appointed to his position. One of the

allegations made in the letter of complaint is that the CEO facilitated tender kick-backs from the service provider of the office space to fund the lifestyle of the Chairperson. It is highly unlikely, and in fact improbable, that Ms Mbali-Khoele would be privy to such details and would even be making such allegations in circumstances where she does not even know the Chairperson of the Board as she had left the employ of the MDB prior to his appointment. Even if we were to accept for a moment that the CEO was fornicating with Ms Mbali-Khoele, it is highly improbable that he would have told her this because Mr Manyoni was not a Chairperson at the time that Ms Mbali-Khoele was employed at the MDB, so the CEO could not have told her that he was facilitating kickbacks for the Chairperson because Mr Manyoni was not the Chairperson at the time that it was alleged that Ms Mbali-Khoele and the CEO had “sexual intercourse”.

- 9.11. Accordingly, based on the objective information at our disposal, and based on the standard of a balance of probabilities, it is in our considered view that this letter of complaint most probably did not come from Ms Mbali-Khoele.

**Whether there was any intimidation that could have influenced the denials of authorship by Ms Mbali-Khoele**

- 9.12. We have also considered whether the denial by Ms Mbali-Khoele could in any way be as a result of the intimidation by the Chairperson and the CEO.

- 9.12.1. We have set out above the versions obtained from both the Chairperson and the CEO relating to the contact that they made with Ms Mbali-Khoele.

- 9.12.2. In our considered view there is nothing out of the ordinary arising from the Chairperson's conduct. If the allegations made relating to the Chairperson were indeed false and the Chairperson was rightly aggrieved by the false allegations made against him, he was entitled to confront the person making the allegations or to, at the very least, seek to enforce his legal rights against such a person. This is what he in fact sought to do. At no stage did Ms Mbali-Khoele indicate that she was intimidated by the contact that she received from the Chairperson but she appeared to be particularly aggrieved by the fact that the letter of complaint had been compiled in her name and that the MDB Board seemed to genuinely believe that she was behind the complaint, without giving her a fair opportunity to make her case known to the MDB.
- 9.12.3. In our considered view, therefore, there is nothing sinister or out of the ordinary about the contact that was made by the Chairperson to Ms Mbali-Khoele. It is also true that by the time that the Chairperson made contact with Ms Mbali-Khoele, there was no decision by the Board that such contact should not be made. In fact the Chairperson explained that the Board knew that he was going to contact Ms Mbali-Khoele after the letter of complaint was first discussed at the Board meeting on 12 August 2021.
- 9.12.4. He was also open about the contact as he later appraised the Board that he did contact Ms Mbali-Khoele and that she denied being the author of the letter of complaint. In these circumstances there is no basis on which it can reasonably be concluded that the contact made

by the Chairperson to Ms Mbali-Khoele was intended to intimidate her not to pursue the complaint.

- 9.12.5. In line with our analysis in respect of the contact made by the Chairperson to Ms Mbali-Khoele, we are also of the considered view that there was nothing sinister or untoward about the contact that the CEO made to Ms Mbali-Khoele about the letter of complaint. The allegations made against the CEO are serious and may have a detrimental impact on him, not only in relation to his career at the MDB, but in his career in the public service as well. Even beyond his career, the allegations may have devastating impact on his family life and reputation. It was therefore certainly consistent with common human experience that when such allegations are made against a person, and that person believes the allegations to be untrue, that such a person would seek to confront the person making the allegations and to enforce their rights.
- 9.12.6. It is also clear from the sequence of events that by the time that the CEO made contact with Ms Mbali-Khoele, there was no decision by the Board that he should not contact Ms Mbali-Khoele. It also does not appear (although this was not said by the CEO) that the CEO at the time that he made contact to Ms Mbali-Khoele on 13 August 2021, the CEO would have known of the decision of the Board on 12 August 2021.
- 9.12.7. In the circumstances, therefore, we conclude that the contact that was made by both the Chairperson and the CEO to Ms Mbali-Khoele was above board and was mainly intended by the two officials to protect



their legitimate rights, which understandably were affected by the serious allegations made in the letter of complaint.

9.13. The letter of complaint, on a balance of probabilities, did not emanate from Ms Mbali-Khoele and in light of the fact that it is our considered view that the CEO and Chairperson did not intimidate Ms Mbali-Khoele, the letter of complaint should accordingly be seen as an anonymous one. In line with the Policy, complaints that are anonymous may be followed up at the discretion of the Board. Should the Board wish to treat this letter of complaint as anonymous allegations, the Board should therefore use their discretion as to whether the allegations should be followed up on.

9.14. In exercising its discretion, the Board must be guided by the relevant legal principles. We however have to say that a balance needs to be struck between:

9.14.1. the imperative to investigate legitimate allegations of wrongdoing, even if they are made anonymously, on the one hand; and

9.14.2. the imperative not to act unfairly against those accused of wrongdoing, by elevating all allegations into something of substance even if the objective facts do not justify this. The Board should not be seen to be honouring gossip and conducting what can be seen as a witch-hunt to the detriment of those who may sometimes be falsely accused or otherwise be victims of smear campaigns.

- 9.15. In employment law, as was held by the Labour Appeal Court in ***BMW (South Africa) (Pty) Ltd v Van der Walt***,<sup>6</sup> fairness, and fairness alone, is the yardstick. That is why the balance we have referred to above has to be struck at all times.
- 9.16. Accordingly, in this particular matter, we have concluded that, on a balance of probabilities, the letter of complaint did not emanate from Ms Mbali-Khoele. This means that if the Board were to further investigate this matter, it would have to be treated as an anonymous complaint and the Board will have to consider the factors set out in the Policy.
- 9.17. The factors set out in the Policy are however not the only ones which are relevant. The Board should also take into account its overall duty towards the MDB and its employees and the duties relating to expenditure, which may be necessitated by a further investigation.
- 9.18. When all the facts are viewed in totality, the conclusion is inescapable that the letter of complaint is, in fact, part of a smear campaign against the CEO and, to some extent, the Chairperson of the Board. Matters such as these consume the time, resources and the energy of the institution whilst negatively affecting the execution by the Board and the executives of the critical constitutional and legislative mandates of the institution.
- 9.19. Although there would be no immediate or severe detriment to the MDB if it were to conduct a further investigation of the substance of the allegations made, it is our considered view that the Board should not be seen to be easily giving credence to smear campaigns which are intended to distract the officials and the Board of the MDB from their important constitutional and legislative mandates.

---

<sup>6</sup> [2000] 2 BLLR 121 (LAC)

- 9.20. Any further investigation into the allegations would also necessitate the expenditure of resources of the MDB. In this very exercise we have engaged in an extensive investigation process which included an extensive forensic analysis of the information. A significant amount of time has also been spent by the Board and employees from various departments of the MDB, including supply chain, IT and legal, in enabling this process to be conducted efficiently.
- 9.21. All of these efforts cost time and require resources. If we were to be required to conduct a further investigation into the substance of the allegations, further resources will be expended, and even more employees will have to be interviewed and to spend time in this process. In our considered view it is not in the public interest that such an important institution such as the MDB should be embroiled in investigating allegations which appear to be a smear campaign and which appear to be intended ultimately to paralyse the functioning of the institution itself.
- 9.22. What however complicates the facts of this matter is that the letter of complaint classifies the allegations as those of “*sexual harassment*”. Despite the discretion that the Board has in terms of the Policy, there are other legal considerations that apply, and must be adhered to, in matters involving allegations of sexual harassment.
- 9.23. In terms of the Employment Equity Act 55 of 1998 (“**the EEA**”), harassment of an employee is a form of unfair discrimination and it is prohibited on any one or combination of grounds of unfair discrimination listed in the EEA. Sexual harassment is a form of unfair discrimination based on the grounds of sex, gender and/or sexual orientation. It has been characterised by the Labour Appeal Court as “*the most heinous misconduct that plagues a workplace*”.

- 9.24. Sexual harassment also results in losses for employers both in terms of productivity and efficiency and has a detrimental effect on their brand and reputation.
- 9.25. In terms of section 60(1) of the EEA, if it is alleged that an employee, while at work, contravened a provision of the EEA, or engaged in any conduct that, if engaged in by that employee's employer, would constitute a contravention of a provision of the EEA (such as committing sexual harassment), then:
- 9.25.1. the alleged conduct must immediately be brought to the attention of the employer; and
- 9.25.2. the employer must consult all relevant parties and must take the necessary steps to eliminate the alleged conduct and comply with the provisions of the EEA.
- 9.26. If the employer fails to take the necessary steps referred to above, and it is later proved that the employee has contravened the relevant provision, then the employer would be deemed also to have contravened that provision. In essence, where sexual harassment is alleged and brought to the attention of the employer, and the employer fails to consult with the relevant parties in order to take the necessary steps to eliminate the alleged conduct and comply with the provisions of the EEA, then the employer itself is deemed to have committed the relevant sexual harassment.
- 9.27. The impact of the MDB being found to have contravened the EEA could be far reaching, particularly in light of the most recent developments in the law relevant to these obligations. In this regard, we draw your attention to the recent judgment

of the High Court in *PE v Dr Beyers Naude Local Municipality and Another*<sup>7</sup> in which an employer was ordered to pay damages of R4 000 000.00 (four million rand) to an employee on the basis that an employer failed to take action against an employee who had previously perpetrated acts of sexual harassment. This is a risk that the MDB cannot take, not only from a financial perspective but also on the consideration that the MDB is an organ of the State, which is an institution that ideally shouldn't be involved in any allegations of sexual harassment. We stress however that the duty to investigate does not arise if the allegations are self-evidently malicious and without basis.

9.28. Clearly, it would be unfair to Mr Sigidi if all random allegations are honoured with an investigation, even if this is not justified. We have also dealt with how an unjustified investigation may result in fruitless and wasteful expenditure. At the same time, providing technical answers without investigating the substance of the allegations once and for all may not ultimately be in the best interests of the MDB, its Board and even Mr Sigidi.

9.29. Given the fact that the letter of complaint was copied to senior functionaries in government, it could be argued that it would be better for the Board to demonstrate that it investigated the allegations thoroughly, and not simply rely on the fact that the authorship of the complaint was not acknowledged or established. The facts of this case however show that this is not the first time that allegations of this nature have been made against the CEO. The allegations that were raised in 2020 were considered by the Board and the Board took the decision to not investigate the allegations in 2020 because the allegations were of a personal nature. It is not acknowledged by the Board that the allegations

---

<sup>7</sup> [2021] 2 All SA 839 (ECG).

raised in 2020 were investigated and found to be baseless. However, the Board does need to draw a line at some stage.

- 9.30. As stated above, Mr Sigidi's concerns about endless investigation of allegations which he considers to be malicious, are perfectly understandable.
- 9.31. In our view, there are factors that can be used to support the Board's decision to close the investigation, on the basis that the authorship has been denied by the alleged complainant and based on our finding that the letter of complaint did not in fact emanate from her. There are also factors that can be used to support the Board's decision that the substantive allegations should be investigated despite the fact that authorship by the alleged complainant has been denied. For as long as the Board's decision is based on relevant and objective factors (some of which are dealt with above) such a decision would be legally defensible. The Board should therefore ultimately make its decision whether it is appropriate to allow the second leg of the investigation.
- 9.32. Our considered view is that the totality of the factors is such that any further expenditure on a further investigation would be unjustified. Also, there are many employees whose names have been dragged in the allegations and who may be severely negatively affected by a full scale investigation of what appears to be part of a smear campaign.
- 9.33. We are accordingly of the view, and advise that Board that, other than consulting with the employees mentioned in the letter of complaint with the view to establishing whether they consider themselves to have been victims of sexual harassment, no further action should be taken by the Board. The process of consulting the employees must be undertaken in respectful and sensitive manner and not be a public process.

- 9.34. It should ideally be conducted by the HR Department and employees should be assured that they are being consulted because the MDB has the duty to do so in terms of section 60 of the EEA and not necessarily because the MDB believes the allegations made in the letter of complaint.

**Possible compromise of the confidentiality of the Board's communication**

- 9.35. It would also be remiss of us if we do not mention one aspect which is particularly concerning regarding the potential breach of the Board deliberations or communication in relation to its matters.
- 9.36. It is clear on the facts provided to us that on 12 August 2021 the Board held a meeting at which they discussed the letter of complaint and that, subsequently, there was communication between the Board members and during which the Chairperson, on 17 August 2021, informed the Board that he had made contact with Ms Mbali-Khoele and that the latter denied being the author of the complaint. In an e-mail of 26 August 2021 which was in response to Ms Myeni's letter of 16 August 2021, the alleged complainant states in response that she had been contacted by the Chairperson and the CEO and that she has grave and uncomfortable feelings and apprehension about how this whole matter is being handled as she was intimidated by the CEO and Chairperson.
- 9.37. Given our conclusion that the letter of complaint itself is part of a smear campaign against the CEO and to some extent the Chairperson, and given the vehement denial by Ms Mbali-Khoele that she was the author of the letter of complaint, this e-mail would not have come from Ms Mbali Khoele. Proceeding from this premise, it seems pretty obvious that whoever was behind the letter of complaint became aware of the Board deliberations and particularly the fact that the

Chairperson had informed the Board members that he had made contact with Ms Mbali-Khoele.

9.38. This is particularly concerning because it indicates, at best, that there was not proper confidentiality of the Board deliberations and, at worst, it indicates that some Board member/s or at the very least, persons who assist the Board member/s in the execution of their duties, have taken the content of the communication amongst the Board members and communicated it to people who are working against the officials of the MDB. This, if it was done by any of the Board members, would be entirely inconsistent with the duties of any Board member and would definitely constitute working against the interests of the MDB and destabilising its leadership.

9.39. We accordingly recommend that the Board should implement further measures to ensure that its systems and deliberations are properly protected and that there is adequate and sufficient level of confidentiality relating thereto.

## 10. **MS MBALI-KHOELE'S DEMANDS**

10.1. Subsequent to providing us with her version of events, Ms Mbali-Khoele's representatives demanded the following from the MDB and its employees, Members of the Board and any other involved parties pertaining to this matter:

10.1.1. That the Board should afford her a formal right of reply in terms of the *audi alteram partem* rule;

10.1.2. A formal written apology from the MDB and the Board for the association made to her person and the assumption made through the e-mail and letter of complaint purported to come from her;



- 10.1.3. The MDB, its employees, the Board and any other interested parties, cease and desist from spreading the “toxic narrative” about her henceforth, including mentioning her name in any form and making any association to her name or person;
- 10.1.4. That her name be formally “cleared” and an apology be made by the Chairperson, MDB and Members of the Board for its “*mishandling of this matter.*” This must be formally communicated to ALL employees of the MDB and to never make mention of her name for any nefarious purposes; and
- 10.1.5. Written assurance and undertaking that the Board will cease and desist, with immediate effect, from making further factually untrue statements and rumours, including the leaking of all e-mails and/or any documents pertaining to this matter.
- 10.1.6. Ms Mbali-Khoele’s representatives further recorded that if the MDB does not cease all related statements and utterances, a defamation of character lawsuit will be instituted against the Chairperson and the Board.
- 10.1.7. Ms Mbali-Khoele’s representatives further stated that if the Board does not comply with the demands, a litigation for monetary damages, as well as any alternative remedies, will be instituted against the Board.
- 10.2. We have found that the letter of complaint did not emanate from Ms Mbali-Khoele. She is accordingly rightly aggrieved by the fraudulent use of her name as the person behind what we have found to be a smear campaign. However, justified as her grievance is, it is also not correct that the Board is to blame for

any of the actions that have led to Ms Mbali-Khoele's grievance. Also despite the extensive investigative process, including the various forensic verification exercises conducted, there is no evidence that could justify a conclusion that the Board or any of its members were the source/s of the letter of complaint.

10.3. Once the allegations as serious as those in the letter of complaint were made, the Board had no option but to ensure that the allegations, or at least the authenticity of the letter of complaint, was investigated. It would constitute an abdication of duty if the Board were to simply ignore such serious allegations made against the most senior executive in the MDB's employ. The Board also cannot justifiably be blamed simply for receiving the letter of complaint. The allegations in the letter of complaint may not reflect favourably on Ms Mbali-Khoele, but the Board cannot be expected to take blame and apologise that the allegations were made.

10.4. The Board has now ensured that the authenticity of the letter of complaint has been investigated. Only once the findings of the investigation have been communicated to the Board can the Board be expected to have knowledge that the letter of complaint was not authentic and was not authored or sent by Ms Mbali-Khoele. The investigation itself was objective and fair and Ms Mbali-Khoele was afforded an opportunity, assisted by her legal representative, to provide her version. Now that the Board has the outcome of the investigation, we would advise that the Board should communicate with Ms Mbali-Khoele formally informing her of the relevant factual background, of the fact that the authenticity of the letter has been investigated and found not to emanate from her. The communication should inform her that in light of the outcome of the investigation, the matter will not be pursued further. Although there shouldn't be

anything wrong with the Board expressing regret that Ms Mbali-Khoele's name had been dragged into this matter, the Board has no obligation to apologise for the fact that the name of Ms Mbali-Khoele was used and that the allegations were made relating to her.

## 11. CONCLUSION AND RECOMMENDATIONS

11.1. On a balance of probabilities, the letter of complaint:

11.1.1. did not emanate from Ms Mbali-Khoele; and

11.1.2. appears to be part of a smear campaign against the CEO and, to some extent, the Chairperson of the Board.

11.2. In terms of the Policy, the Board has a discretion to investigate the allegations contained in the letter of complaint. If the Board were to further investigate this matter, it would have to be treated as an anonymous complaint. Although there are factors that can be relied on to justify conducting the further investigation into the substance of the allegations, the factors justifying the discontinuation of the investigation are more weighty in light of the fact that:

11.2.1. The further investigation would be in relation to the letter of complaint that has been found to be fraudulently presented as emanating from Ms Mbali-Khoele, when it is not, and a letter that appears to be part of a smear campaign that has the potential to destabilise the MDB; and

11.2.2. The further expenditure on the further investigation would likely constitute fruitless and wasteful expenditure.

11.3. However, in light of the fact that the letter of complaint classifies the allegations as those of sexual harassment, despite the discretion that the Board has in terms

of the Policy, there are other legal considerations that apply, and must be adhered to, in matters involving allegations of sexual harassment.

- 11.4. Even though we advise that the Board should not investigate the allegations further, it is our considered view that in light of the obligations imposed by section 60 of the EEA, the Board should at the very least instruct that a process be initiated whereby Human Resources at the MDB communicates with the relevant parties by way of consulting them, in order to minimise any potential risk that the MDB may face if it does not comply with section 60 of the EEA.
- 11.5. This could be done by Human Resources engaging with the relevant persons with the view to ascertaining whether they consider themselves to be victims of sexual harassment at the workplace. This process will have to be conducted in a respectful and sensitive manner, and employees should be informed that the process is undertaken because the MDB has a legal obligation to undertake it and not because the allegations are necessarily believed.
- 11.6. Depending on the responses received as part of this process, the MDB will then be able to take appropriate action in fulfilment of the obligations imposed by section 60 of the EEA, to the extent appropriate and necessary.
- 11.7. In terms of the demands from Ms Mbali-Khoele, we recommend that the Board write to Ms Mbali-Khoele to state the following:
  - 11.7.1. The allegations emanating from the letter of complaint were serious and that the Board had an obligation to investigate, at the very least, the authenticity of the complainant from whom the allegations were made;

- 11.7.2. The Board confirms that an investigation was conducted into the authenticity of the letter of complaint and it was found that the letter of complaint did not emanate from her;
- 11.7.3. She was contacted during the investigation in order to obtain her version, and it is regretted, but it was never the intentions of the MDB to place her name into disrepute; and
- 11.7.4. In light of the outcome of the Investigation, the matter will not be pursued further.

Yours sincerely

**EDWARD NATHAN SONNENBERGS INC.**

Per:

A handwritten signature in black ink, appearing to be 'Muzi Khoza', is written over a horizontal line. The signature is stylized with loops and a long horizontal stroke extending to the right.

**MUZI KHOZA**

**DIRK ENGELBRECHT**

**JENNA BATT**

**LESEGO RALEKOA**

# Exhibit 1

**Dirk Engelbrecht**

---

**From:** tshiamo mmangwato <mmatshiamo291@gmail.com>  
**Sent:** 11 August 2021 12:29 PM  
**To:** malebo@presidency.gov.za  
**Cc:** MandisaMB@cogta.gov.za; PamelaS@cogta.gov.za; MathoM@cogta.gov.za; Lungim@cogta.gov.za; CarolineM@cogta.gov.za; legadimal@cogta.gov.za; apलग्रेng@gmail.com; mookism@unisa.ac.za; molefemp15@gmail.com; jane.thupana@gmail.com; mmatsie1972@gmail.com; themba.dub@gmail.com; albertkekesi@gmail.com; dmohale@webmail.co.za; Dmohale@dut.ac.za; namiso.baliso@gmail.com; motlogelwam65@gmail.com; thabo@demarcation.org.za; Manyonithabo@gmail.com; Kgabo@demarcation.org.za; thabiso@demarcation.org.za; nokukhanya@presidency.gov.za; President@presidency.gov.za; PresidentRSA@presidency.gov.za  
**Subject:** WHISTLEBLOWER LETTER ON MBD SEXUAL HARRASMENT BY CEO MUTHOTH SIGIDI ON JUNIOR MDB OFFICIALS  
**Attachments:** WHISTLEBLOWER LETTER TO MDB BOARD MEMBERS ABOUT SEXUAL HARRASMENT AT MDB .pdf

Dear  
Hon. President Cyril Ramaphosa  
PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

CC  
Hon. Dr Nkosana Dlamini Zuma  
Minister : COGTA

CC  
The Municipal Demarcation Board  
BOARD OF DIRECTORS

Dear President and the Hon Minister

Its with a heavy heart that i must write this letter during a women's month where by other women a celebrated, and we are sitting with a challenge of having to look after our children with their absent fathers who don't want to take responsibility of their children as a results of their father misuse of his authority as a CEO that the state has placed upon him.

Hon President i plead with you and the minister to hear our cries as we are left destitute and broken by these men in our society.

I leave everything in your capable hands Mr President please look into this and bring an end to this culture at MDB.

Yours Sincerely

BULIE

# Exhibit 2

**DATE: TUESDAY 11 AUGUST 2021**

**LETTER OF COMPLAINT AS A FORMER COMMUNICATIONS SPECIALIST**

Dear All Board Members

I would like to bring to your attention the following complaint against the CEO Mr Muthotho Sigidi

**SEXUAL INTERCOURSES IN THE MBD CEO'S OFFICE**

1. I had a sexual intercourse with the CEO of MDB Mr Muthotho Sigidi in his office based on the promise that I will get promoted to the position of senior manager communications and stakeholder engagement and that the former Executive Manager Corporate Services will do everything to ensure that I get the position, but the condition was to sleep with the CEO Mr Muthotho Sigidi I have conceived an unplanned and unwanted child out of wedlock with Mr Muthotho Sigidi and I was depressed and forced to leave the employment of MDB and he still unable to support my child.
2. Mr Muthotho Sigidi continued to have sexual intercourse with one of the MBD Board committee officers which they together with Mr Muthotho Sigidi conceived a second child with the said lady and asked another Board committee officer why they don't make a child together which is amount to sexual harassment as it's a known fact and office culture that Mr Muthotho Sigidi at MDB is constantly requesting sexual favors from officials.



3. Currently Mr Muthotho Sigidi impregnated his former PA and the current PA in the office of the CEO at the same time, and the two ladies in question is currently expecting two children by the fathered by the same Mr Muthotho Sigidi.
4. Mr Muthotho Sigidi has another child with a cleaning lady working at the second floor of MDB Head office in Centurion Pretoria which he promised to give her a permanent contract of cleaner as he was asking the Board to insource the cleaning services which the previous Board declined but as the cleaning lady is constantly complaining about his inability to pay child support as required by government laws, he started to process all over again to try to insource the cleaning and security services.
5. Mr Muthotho Sigidi always bragged about him going to be paid R 1 Million HOD allowance from MDB and that the Chairman of MBD Mr Thabo Manyoni will ensure that he gets the allowance and remove any challenges to getting his allowance as they have agreed with Chairman of MDB Mr Thabo Manyoni as he is doing him a favors as Mr Muthotho Sigidi is facilitating tender kickbacks of the Rental lease towards the Chairman of MDB Mr Thabo Manyoni to pay for his lifestyle and rented place in centurion which Mr Muthotho Sigidi bragged about to me on evening after our sexual intercourse.
6. Its only few females who haven't slept with Mr Muthotho Sigidi at MDB Head Office under the promise of better promotions and working conditions.

7. I once came to the MBD Head office parking lot last year December as I was desperate and depressed and I threatened Mr Muthotho Sigidi that I will leave the Baby in the MDB office premises as he hasn't paid child support for his child and he has used me, I plead with you the Board to deal with this kind of a scourge of these sexual predators who are destroying our lives in the name of favors and this is very disheartening that during this woman's month we still have men like Mr Muthotho Sigidi who have made 4 children within one entity in the past 4 yrs and yet our Government and Boards keeps on letting these people live in our society a model citizens , I will send this letter to the Minister of COGTA Hon. Dr Nkosanan Dlamini Zuma and plead with her of the desperate situation of men who use state resources to open office brothels .

8. If no response, I will take this matter to the State President and the EFF and DA.

Lastly I plead to be protected as a this is a violent person Mr Muthotho Sigidi and I challenge DNA or pertanity tests can be conducted on both Mr Muthotho Sigidi and Myself and all the Ladies in question to prove that he impregnated them.

Your sincerely

**BULIE**

**Dirk Engelbrecht**

---

**From:** tshiamo mmangwato <mmatshiamo291@gmail.com>  
**Sent:** 26 August 2021 04:26 PM  
**To:** Mbali Myeni  
**Cc:** MandisaMB@cogta.gov.za; PresidentRSA@presidency.gov.za; Dmohale@dut.ac.za; albertkekesi@gmail.com; President@presidency.gov.za; apelgeng@gmail.com; malebo@presidency.gov.za; legadimal@cogta.gov.za; PamelaS@cogta.gov.za; MathoM@cogta.gov.za; Lungim@cogta.gov.za; namiso.baliso@gmail.com; nokukhanya@presidency.gov.za; thabiso@demarcation.org.za; thabo@demarcation.org.za; Kgabo@demarcation.org.za; CarolineM@cogta.gov.za; dmohale@webmail.co.za; jane.thupana@gmail.com; Manyonithabo@gmail.com; mmatsie1972@gmail.com; themba.dub@gmail.com; motlogelwam65@gmail.com; namso.baliso@gmail.com  
**Subject:** Re: Letter of complaint as a former Communications Specialist

Dear Deputy Chairperson

I acknowledge the receipt of the letter that you are investigating the matter, However I have grave and uncomfortable feelings and apprehension about how this whole matter is handled.

1. The Chairperson of the Board Mr Manyoni called me and intimidated me that I should drop this complaint;
2. The CEO Mr Sigidi called me too and intimidated me while I was my husband. I should not participate and cooperate with the investigation as my marriage will be over.

I am deeply worried and scared about my masculine tendencies of which we victims we must always prove that we were hurt and put in a difficult situation and as the Board and as Women and Mothers, i wonder is your daughters would tell you about what happened to them in the hands of sexual predators would you now believe them and protect them.

I humbly request that the Chairperson of the Board and the CEO stop communicating with me in any shape or form as I am still healing from this traumatic experience and I am trying to move forward with my life, and as part of my healing I wanted to bring light and face my perpetrator.

ANONYMOUS WHISTLEBLOWER  
BULIE

On Mon, Aug 16, 2021 at 3:42 PM Mbali Myeni <[molefemp15@gmail.com](mailto:molefemp15@gmail.com)> wrote:  
Afternoon

Please find the letter attached for your reference.

Regards

Mbali Myeni  
Deputy Chairperson  
Municipal Demarcation Board

## Dirk Engelbrecht

---

**From:** Kgabo Gabriel Mapotse <kgabo@demarcation.org.za>  
**Sent:** 09 April 2020 11:26 PM  
**To:** koenapphukubye@gmail.com  
**Subject:** CONFIDENTIAL\_Whistleblower Complain Letter 19\_03\_2020.pdf  
**Attachments:** CONFIDENTIAL\_Whistleblower Complain Letter 19\_03\_2020.pdf; ATT00001.txt

FYI  
[[http://www.demarcation.org.za/email\\_signatures/Logo.png](http://www.demarcation.org.za/email_signatures/Logo.png)]

Kgabo Gabriel Mapotse

Company Secretary

Eco Origins Office Park Block C1

349 Witch-Hazel Avenue

Highveld, 0157

Tel: 012 342 2481

Email: [kgabo@demarcation.org.za](mailto:kgabo@demarcation.org.za)

Web: [www.demarcation.org.za](http://www.demarcation.org.za)

# Exhibit 5

19 MARCH 2020

From:  
ENONIMOUS WHISTLEBLOWER  
(MBD) EMPLOYEES

**CONFIDENTIAL**

**REF: EMBEZZLEMENT AND ABUSE OF POWERS AND FAVORITISM BY CEO OF MUNICIPAL DEMARCATION BOARD AND VARIOUS ACTS OF MALADMINISTRATION AND STAFF PERGING**

Attention:  
Thabo Manyoni  
Board Chairperson Of Municipal Demarcation Board  
Email: [Thabo@demaarcation.org.za](mailto:Thabo@demaarcation.org.za)

CC;  
Chairperson of Audit Committee  
Mr Coovadia  
Email: [Coovadia@iafrica.com/Info@coovadia.net](mailto:Coovadia@iafrica.com/Info@coovadia.net)

This complaint brings to your attention various “acts” of embezzlement conducted by the CEO Mr Muthotho Sigidi as outlined below;

**COMPLAINT 1: -FRADULENT AND EMBEZZLEMENT MATTER 2019**

***The MDB Bursary policy and bursary contract dictates that upon resignation of an employee who is studying using MDB bursary the bursary loan amount owed to MDB must be repaid back to the organization.***

1. In the Case of Ms Bulie Mbali Khoele whose leave days upon resignation were withheld by the HR Department as per policy for a repayment of a Study Bursary loan owed to MDB to the value of +\_R33000;
2. Ms Bulie went to CEO and informed him that HR is refusing to release her leave days monies to release her money and CEO Instructed HR Department Head to release the money;
3. And till today the money have not been recovered as Mr Abel Maluleke is blocking any appointment of Debtor Collectors to collect the embezzled funds;

4. And this money is beneficial to Ms Bulie who is rumored to have been impregnated by the CEO, it is rumored that the CEO and Ms Bulie had a romantic relationship which resulted in her being impregnated by the CEO and currently they have a baby together, which is also detrimental to the organization.
5. The CEO and CFO did not report to Audit, Finance Committees and Board about the amount even it does not reflect in the MDB financial statements for 2019.

## **COMPLAINT 2: -FAVOURITISM AND DISREGARD OF THE PUBLIC**

### **ADMINISTRATIONS ACT AND HR POLICY**

***The MDB CEO embarked on a “Jobs” for Pals stunts where by various former COGTA colleagues where the CEO was employed have been currently be employed in the MDB with our following proper HR processes and procedure;***

1. Appointment of Dimakatso Makgetha a former colleague of the CEO as his PA to position of former Ms Bulie Mbali(*Who resigned*) “His Baby Mama” to the position of MDB Communication Specialist without following recruitment process and after her appointment to Communication Specialist;
2. The fruitless and wistful salary increment of Ms Dimakatso Makgetha’s Acting allowance as PA in the CEO earning salary equivalent to a Director Level notch;
3. Favoritism on appointments of Staff Causing Staff Low ‘Morale and Culture of retainment of Favorites Employees;
4. When the CEO was appointed in 2017 February to dated He has made the following appointments of his former colleagues and pals from COGTA ;
  - 4.1 Dimakatso Makheta - CEO PA promoted without recruitment process cancelled advertisement to appoint her to Communication Specialist
  - 4.2 Nokwazi - PA CEO
  - 4.3 Abel Maluleke - Supply Chain Specialist
  - 4.4 Naomi - Supply Chain Officer
  - 4.5 Barileng- Senior Manager Communication

5. Mr Dumisani Khoza is a very competent employee resigned but not application for Retainment was done for him;
6. And immediately thereafter Mr Mthembu resigned then the CEO retained him even after this contravene the HR policy on Retainment and thereafter ask condonation;

**COMPLAINT 3: -BREACH AND DISREGARD OF THE PFMA ACT**

***The MDB CEO and CFO and Supply chain conspired and the internal processes of sourcing of a lease contract to their own personal benefit which amounts to corruption;***

1. The CEO,CFO and Supply Chain Specialist Abel knew prior to appointment of lease bidder that COGTA had an office through The Department of Public Works as the previous Board instructed management though one of its resolutions to continue to finalize the appointment which the COGTA identified building which was cheaper after the Board had applied its mind and it will free up funds for core business for the MBD and it is his done in terms of Protected Disclosure Act.

Yours truly

MBD /EMPLOYEES

Name : Anonymous ( Afraid of being victimized by the employer)

DATE: 2020 MARCH 19



**Dirk Engelbrecht**

---

**From:** Thabo Manyoni <thabo@demarcation.org.za>  
**Sent:** 19 August 2021 08:28 AM  
**To:** bulirato@gmail.com  
**Subject:** FW: WHISTLEBLOWER LETTER ON MBD SEXUAL HARRASMENT BY CEO MUTHOTH SIGIDI ON JUNIOR MDB OFFICIALS  
**Attachments:** WHISTLEBLOWER LETTER TO MDB BOARD MEMBERS ABOUT SEXUAL HARRASMENT AT MDB .pdf

----- Forwarded message -----

From: **tshiamo mmangwato** <[mmatshiamo291@gmail.com](mailto:mmatshiamo291@gmail.com)>  
 Date: Wed, Aug 11, 2021 at 12:29 PM  
 Subject: WHISTLEBLOWER LETTER ON MBD SEXUAL HARRASMENT BY CEO MUTHOTH SIGIDI ON JUNIOR MDB OFFICIALS  
 To: <[malebo@presidency.gov.za](mailto:malebo@presidency.gov.za)>  
 Cc: <[MandisaMB@cogta.gov.za](mailto:MandisaMB@cogta.gov.za)>, <[PamelaS@cogta.gov.za](mailto:PamelaS@cogta.gov.za)>, <[MathoM@cogta.gov.za](mailto:MathoM@cogta.gov.za)>, <[Lungim@cogta.gov.za](mailto:Lungim@cogta.gov.za)>, <[CarolineM@cogta.gov.za](mailto:CarolineM@cogta.gov.za)>, <[legadimal@cogta.gov.za](mailto:legadimal@cogta.gov.za)>, <[apelgreng@gmail.com](mailto:apelgreng@gmail.com)>, <[mookism@unisa.ac.za](mailto:mookism@unisa.ac.za)>, <[molefemp15@gmail.com](mailto:molefemp15@gmail.com)>, <[jane.thupana@gmail.com](mailto:jane.thupana@gmail.com)>, <[mmatsie1972@gmail.com](mailto:mmatsie1972@gmail.com)>, <[themba.dub@gmail.com](mailto:themba.dub@gmail.com)>, <[albertkekesi@gmail.com](mailto:albertkekesi@gmail.com)>, <[dmohale@webmail.co.za](mailto:dmohale@webmail.co.za)>, <[Dmohale@dut.ac.za](mailto:Dmohale@dut.ac.za)>, <[namiso.baliso@gmail.com](mailto:namiso.baliso@gmail.com)>, <[motlogelwam65@gmail.com](mailto:motlogelwam65@gmail.com)>, <[thabo@demarcation.org.za](mailto:thabo@demarcation.org.za)>, <[Manyonithabo@gmail.com](mailto:Manyonithabo@gmail.com)>, <[Kgabo@demarcation.org.za](mailto:Kgabo@demarcation.org.za)>, <[thabiso@demarcation.org.za](mailto:thabiso@demarcation.org.za)>, <[nokukhanya@presidency.gov.za](mailto:nokukhanya@presidency.gov.za)>, <[President@presidency.gov.za](mailto:President@presidency.gov.za)>, <[PresidentRSA@presidency.gov.za](mailto:PresidentRSA@presidency.gov.za)>

Dear  
 Hon. President Cyril Ramaphosa  
 PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

CC  
 Hon. Dr Nkosana Dlamini Zuma  
 Minister : COGTA

CC  
 The Municipal Demarcation Board  
 BOARD OF DIRECTORS

Dear President and the Hon Minister

Its with a heavy heart that i must write this letter during a women's month where by other women a celebrated, and we are sitting with a challenge of having to look after our children with their absent fathers who don't want to take responsibility of their children as a results of their father misuse of his authority as a CEO that the state has placed upon him.

Hon President i plead with you and the minister to hear our cries as we are left destitute and broken by these men in our society.

I leave everything in your capable hands Mr President please look into this and bring an end to this culture at MDB.

Yours Sincerly

BULIE

**TO :** DEPUTY CHAIRPERSON OF THE BOARD  
**FROM :** CEO, MR MUTHOTHU SIGIDI  
**DATE :** AUGUST 2021  
**RE :** REPORT ON ALLEGATION OF SEXUAL HARASSMENT  
 BY MYSELF AND FACILITATION OF KICKBACKS FOR  
 THE CHAIRPERSON OF THE MDB

1. On the 13<sup>th</sup> of August 2021, I received your letter through an email which sought to notify me of the letter received by the Board implicating me of serious allegations of sexual harassment and facilitation of kickbacks for the Chairperson.
2. I would like to appreciate the resolution of the Board to bring the matter to my attention and affording me the opportunity to state my version with a view to assist the Board to decide on this serious matter.
3. I have given myself time to look at the paper/letter purported to have been written by the former Communication Specialist. Whilst I have noted these baseless allegations, my response will be in two parts, the first being my simple response to the allegation and the other to address the Board in the manner it has allowed itself to be used by the Board Secretary and the Board becoming mute about it.

### My response to the allegation

- a. Allegation 1: had a sexual intercourse with the CEO of MDB Mr Muthotho Sigidi in his office based on the promise that I will get promoted to the position of senior manager communications and stakeholder engagement and that the former Executive Manager Corporate Services will do everything to ensure that I get the position, but the condition was to sleep with the CEO Mr Muthotho Sigidi I have conceived an unplanned and

unwanted child out of wedlock with Mr Muthotho Sigidi and I was depressed and forced to leave the employment of MDB and he still unable to support my child. Inappropriate or improper sexual conduct with the former junior employee (during her tenure as former communication specialist) resulting in such employee conceiving a child and request for sexual favour in return for promotion to a senior position;

**I have no knowledge of these allegations. The content of this paragraph is denied. The writer is put to proof thereof.**

- b. Allegation 2: Inappropriate or improper sexual conduct with the junior employee (board committee officer 1) resulting in the junior employee conceiving a child; Mr Muthotho Sigidi continued to have sexual intercourse with one of the MBD Board committee officers which they together with Mr Muthotho Sigidi conceived a second child with the said lady and asked another Board committee officer why they don't make a child together which is amount to sexual harassment as it's a known fact and office culture that Mr Muthotho Sigidi at MDB is constantly requesting sexual favours from officials.

**I have no knowledge of these allegations. The content of this paragraph is denied. The writer is put to proof thereof.**

- c. Allegation 3: Unwelcome sexual advances gesture to a junior official (board committee officer 2); Currently Mr Muthotho Sigidi impregnated his former PA and the current PA in the office of the CEO at the same time, and the two ladies in question is currently expecting two children by the fathered by the same Mr Muthotho Sigidi.

**I have no knowledge of these allegations. The content of this paragraph is denied. The writer is put to proof thereof.**

- d. Allegation 4: Mr Muthotho Sigidi has another child with a cleaning lady working at the second floor of MDB Head office in Centurion Pretoria which he promised to give her a permanent contract of cleaner as he was asking the Board to insource the cleaning services which the previous Board declined but as the cleaning lady is constantly complaining about his inability

to pay child support as required by government laws, he started to process all over again to try to insource the cleaning and security services.

**I have no knowledge of these allegations. The content of this paragraph is denied. The writer is put to proof thereof.**

- e. Allegation 5: Mr Muthotho Sigidi always bragged about him going to be paid R 1 Million HOD allowance from MDB and that the Chairman of MBD Mr Thabo Manyoni will ensure that he gets the allowance and remove any challenges to getting his allowance as they have agreed with Chairman of MDB Mr Thabo Manyoni as he is doing him a favors as Mr Muthotho Sigidi is facilitating tender kickbacks of the Rental lease towards the Chairman of MDB Mr Thabo Manyoni to pay for his lifestyle and rented place in centurion which Mr Muthotho Sigidi bragged about to me on evening after our sexual intercourse.

**I have no knowledge of these allegations. The content of this paragraph is denied. The writer is put to proof thereof.**

- f. Allegation 6: Its only few females who haven't slept with Mr Muthotho Sigidi at MDB Head Office under the promise of better promotions and working conditions.

**I have no knowledge of these allegations. The content of this paragraph is denied. The writer is put to proof thereof.**

- g. Allegation 7: I once came to the MBD Head office parking lot last year December as I was desperate and depressed and I threatened Mr Muthotho Sigidi that I will leave the Baby in the MDB office premises as he hasn't paid child support for his child and he has used me, I plead with you the Board to deal with this kind of a scourge of these sexual predators who are destroying our lives in the name of favours and this is very disheartening that during this woman's month we still have men like Mr Muthotho Sigidi who have made 4 children within one entity in the past 4 yrs and yet our Government and Boards keeps on letting these people live in our society a model citizen , I will send this letter to the Minister of COGTA Hon. Dr

Nkosanan Dlamini Zuma and plead with her of the desperate situation of men who use state resources to open office brothels .

**I have no knowledge of these allegations. The content of this paragraph is denied. The writer is put to proof thereof.**

- h. Allegation last paragraph: Lastly, I plead to be protected as a this is a violent person Mr Muthotho Sigidi and I challenge DNA or **pertanity** tests can be conducted on both Mr Muthotho Sigidi and Myself and all the Ladies in question to prove that he impregnated them.

**I have no knowledge of these allegations. The content of this paragraph is denied. The writer is put to proof thereof.**

4. The above document has no basis and same is unfounded. The writer is put to proof thereof.

## **Connecting the dots about the shenanigans happening at the Board and the action and inaction of the Board**

### **Policy and legislative framework**

#### **Sexual Harassment policy**

5. The Sexual Harassment policy defines **allegation** to mean a statement by a complainant that he or she believes an act of sexual harassment has occurred. An allegation is handled through the **informal resolution** process.
6. The same policy defines Complainant to mean any person who alleges that he or she is being subjected to harassment; **an employee, applicant for employment, or intern who believes that he or she has been the victim of unlawful discrimination or sexual harassment, and submit the complaint.**
7. The policy also defines sexual harassment to mean unwelcome or unwanted attention or conduct of a sexual nature from someone **in the workplace** that causes discomfort, humiliation, offence or distress, and/or interferes with the job.

8. It will be important to specifically draw the attention of the Board to paragraph 6, 7 and 8 of the policy which outlines the situations in which sexual harassment could occur, procedures for reporting the harassment and procedure for dealing with sexual harassment.

### **Whistleblowing Policy**

9. The whistle blowing policy, paragraph 2(d)(iv) provides that the Board recognises that unsubstantiated allegations that are untrue and that are made in bad faith are damaging to the persons against whom they are made and also damaging to the MDB. It is therefore incumbent upon any person picking up the paper like what happened in March 2020 to verify the veracity of the information in the paper otherwise that person becomes liable to not only provide proof of the allegations but can be an accomplice to the crime of peddling falsehood and therefore can be sued.
10. Paragraph 4.1(b) provides that the Board will not tolerate harassment or victimisation or any reprisal against the disclosing employee and will take the necessary action to protect employees who have made disclosures.
11. Paragraph 4.4 deals with untrue allegations. These must be considered when dealing with a whistleblowing case. The other matter of importance is about reporting of cases, the policy provides that the first step will be for the employee to lodge his or her complaint with ARC as well as the Chairperson of the Board. The date of the letter alleged to have been written by Buli is dated the 11<sup>th</sup> August 2021, which begs the question as to why the Board was summoned to a discussion the following day and it agrees to an urgent meeting the following day (12 August 2021).
12. **Paragraph 5.4 indicate that reporting of concerns must be done through the emails indicated there in (Chairperson of the board and ARC's email addresses). The speed in the manner this matter was dealt with tells me that those two emails were not used and therefore question whether the Board established the authenticity of the matter.** Did any of the board members ask if

the allegations were substantiated before agreeing to the urgent board meeting?  
This is doubtful.

13. Paragraph 6.2 of the policy provides that in order to protect all parties concerned and the Board, initial enquiries will be made to decide whether an investigation is appropriate and if so, what form it should take. In this case, the matter is received by whoever received it and the following day the Board is urgently summoned without any initial enquiries made with the complainant. In this particular case the complainant is known as she writes her name but one would believe that the person didn't want to hide and thus could have provided her numbers. Did any board member question if the supposed author did indeed write this letter or not? This would have been easy to do to authenticate the letter (considering that the supposed author is identified in the letter) since any person can write a letter and claim to be anyone they wish.

#### **Are these allegations a coincidence? Where did it all start?**

14. I will answer the above question through examples of Board **complicity** which I have observed in the last two years, some of which I documented in the memorandum of the 18<sup>th</sup> November 2020.
15. The genesis of this matter began by a decision of the Board on a matter that was suggested by Ms Thupana during the Board orientation in early March 2019-where the Board resolved that the legal opinion that the Board procured in late 2016 or early 2017 defining the relationship between the full time Chairperson and the CEO must be presented in the following Board meeting. (The authors of the opinion had to be found irrespective of the Board Secretary being an Advocate).
16. Ordinarily such procurement should have been made as early as possible as the Board meeting was planned for the 30<sup>th</sup> May 2019.
17. On or about the 30<sup>th</sup> May 2019, the Board Secretary approached my office for approval of a deviation and I asked what the deviation was all about and why the CFO has not signed the deviation. The response I received was that the CFO refused, I phoned the CFO to ask why she refused and she informed me that she was asked to sign a requisition but indicated to Adv. Mapotse that because the



service to be procured does not have a fixed amount indicated (more so because procurement had not started) she cannot sign the requisition because the amount might go beyond her delegation(R100,000).

18. I could not agree to sign the deviation and informed Adv. Mapotse that whether I sign the deviation form or not the expenditure thereof would be irregular because the service providers were already engaged on or about the 13<sup>th</sup> May 2019 and thus there was already non-compliance with SCM regulations. **That is the day that I poked the Bear as Adv. Mapotse called it recently.**
19. You will note that in my memorandum to you dated 16 June 2019 in paragraph 26, I outlined the common denominator as Adv. Mapotse and now he has graduated to be the common multiplier if one borrows the terminology used by the former Minister of Finance.

### **Common multipliers**

20. On the same day, the 30<sup>th</sup> May 2019, I presented the report in which I outlined my decision regarding the procurement of the building lease and the request that I use the savings realised to fund partly the outcomes of job evaluation.
21. The Board approved this report. The Board secretary was in that meeting and had sight of the memorandum which I had circulated to all executives on or about the 17<sup>th</sup> May 2019 for inputs. When this matter was presented and approved by the Board, the Board Secretary never raised anything to advise the Board not to accept the report. (see paragraph 26 (e) of my report to you of the 26 June 2019 which I presented to the Board on or about the 27<sup>th</sup> June 2019.)
22. The Board allowed the Board secretary's pre-cautionary memo and couldn't indicate to him why he never raised the pre-caution in the meeting of the 30<sup>th</sup> May 2019. This in my experience was not supposed to have been allowed. Furthermore, a story was leaked to the media of the supposed irregularity in the awarding of the lease tender. Was it a coincidence that the precautionary memo and the leaking of the story (which mentions the precautionary memo) happened around the same time? It was clear who the source of the leak was but I did not say anything.

23. As you are aware, the Board instituted a forensic investigation whose results we all know. The forensic investigation was conducted despite the matter being presented to National Treasury who advised on how I should proceed in the matter. Money was expended for nothing.
24. On or about October /November 2019 I presented to the ARC some instances of irregular expenditure and two instances that I thought will require an investigation as required by the Irregular Expenditure framework. It happened that the two Irregular Expenditures were in legal procurement in respect of the people who presented the interpretation of the opinion re- the relationship between the Chairperson and the CEO and the other relating to the expenditure incurred in the handling of the disciplinary hearing in respect of the Executive Manager: Corporate Services.
25. Let me go a little back to the transaction relating to the two Advocates /Senior Counsels and two attorneys that presented the legal opinion. They sent an invoice of R248 000-00 to me for the 30 minutes that they were at the Board. I approached Adv. Mapotse to say I received an invoice and this has never happened that an invoice will be sent to the CEO. I asked Adv. Mapotse to query the invoice as I didn't believe it.
26. Adv. Mapotse came back to me and said that the invoice is correct and that this is how lawyers' bill. I instructed the CFO to send the invoice to Adv. Mapotse as the user to confirm if the services were satisfactorily rendered. Kgabo signed off the invoice for payment.
27. I felt that as the CEO I might not be performing my general responsibilities if I just let this payment go. I phoned the former Chairperson Ms Thupana to check with her how much the Board paid for the opinion and she said she is not very certain but it was less than R300 000-00 and advised me to check the finance manager, and indeed I checked and the payment stub indicated about R248 000-00 was paid. I then reported to the Chairperson that I have this view that the Board is being short changed and I am also obliged to pay the invoice within 30 days. After showing the Chairperson the invoice, he was of the same view that it was exorbitant and thus the invoice was sent back to the lawyers who reduced the invoice by

about 50% from about R246 000-00 to R136 000-00. This is the same matter where Adv. Mapotse received a warning letter for the irregular expenditure.

### **Appointment of internal Auditors to investigate the irregular expenditure**

28. I appointed the internal auditors to investigate the two irregular expenditures relating to the legal opinion and the disciplinary hearing of former Executive Manager Corporate Services. BDO was appointed to deal with the one for the legal opinion and HTB for the one relating to the disciplinary hearing of EM: Corporate Services.
29. When HTB's investigation called for the interviews of all employees who were considered relevant to the matter and Adv. Mapotse was one of the employees. It is my view that after that interview, judging by the report Adv. Mapotse might have seen that it might unravel some unpalatable secrets about his involvement which later was proven that he had a relationship with Adv. Malahlela which dates back, but such was never declared. A diversion to the matter was created in the form of the whistleblower letter of March 2020 the investigation of which was done even when the number of procedural issues were not followed (I guess this time the Board will follow all the procedures outlined in the policies outlined above).
30. This concocted whistle blowing letter in March 2020 was discussed at the Board and an investigation done on trivialities that baffled practitioners in the public sector. The investigation included the building tender even though a forensic report accepted by the board, National Treasury and Auditor General found no wrong doing in the matter. One would think that the TOR for investigating the whistleblower report would at least not include the building considering that the board already has a forensic report that the board has accepted in this regard. Again, money expended for nothing. I requested the information of the Whistleblower through my letter to the Chairperson of ARC to the Board and I was denied that access as I wanted to sue the whistleblower. I let that pass hoping that the Board will in future be circumspect and not just allow papers written anywhere by anybody to be entertained. It is proving that I was wrong. It was clear for anyone to see who this whistleblower was.

31. To hide the misdemeanours of the Board secretary the final report on HTB which I was to still accept was discussed in the in-committee meeting of the 14<sup>th</sup> July 2020 and 29<sup>th</sup> September 2020 respectively and resolutions were taken. How did it come about that the board discuss a report commissioned by me and written to me by the internal auditors is to this day unclear to me?
32. Then an instruction is issued from the Board for me to implement the resolutions that I was not afforded the opportunity to advise on. I should discipline the CFO and Finance Manager for the sins of the Board secretary. As communicated to the Chairperson through various communiques. I felt it improper to subject these employees to unnecessary stress for things they did not do.
33. I wrote a memorandum addressed to the Governance Social and Ethics Committee, where I raised my 18 years of experience with some matters that I considered to be foreign in the manner that the Board was operating. You informed me that I should address the matter to the Chairperson as the matters raised were matters that the Chairperson was tasked by the Board to deal with (I guess it was in the in- committee meetings as I was not aware).
34. I obliged and re-directed the memorandum dated the 18<sup>th</sup> November 2020, as advised to the Chairperson of the Board which memorandum was presented in the in-committee Board of the 14<sup>th</sup> December 2020.
35. Were those issues addressed? No, substantive matters that I raised were not even touched for reasons I am not aware of but left me feeling hard done by and unwanted.
36. Earlier, on or about the 08<sup>th</sup> of December 2020, in a meeting that was planned which eventually was postponed to the 14<sup>th</sup> December 2020, after Ms Thupana indicated that the documents were massive and that Board members will need sufficient time to go through, I had requested the Chairperson to afford me an

opportunity to address the Board on matters that in my view were making my life difficult as the Accounting Officer.

37. I was granted 3 minutes in which I raised matters relating to the inconsistencies in the application of Board policies and circumvention of Board resolutions. When the Chairperson opened for discussion, the Board went mute until the Chairperson dismissed me because no one wanted to engage.
38. It was after the meeting of the 14<sup>th</sup> December 2020, that I received numerous correspondences that I should discipline the CFO and Finance Manager, the Board secretary whose misdemeanours seemed very serious was no longer mentioned.
39. I responded to these matters through written communication to the Chairperson and am on record to say It will not be possible for me to implement wrong decisions and if I had to be charged for insubordination let it be.
40. The Chairperson in his wisdom started his own consultation which resulted in the report from Labour Relations practitioner from COGTA who advised that the matters at play are in the forte of the CEO and not the Board.
41. The Board Secretary learned in his clandestine way that the matter of HTB is not dying. Another diversion had to be found and the best way would be for SKG to litigate against the lease and the motion hereof was submitted to the Board by the messenger of the Court. This was to divert attention of the Board from dealing with substantive issues to peripheral issues. SKG realised that they could not sustain the matter and withdrew the matter and tendered the costs as well.
42. When the matter above was received, I called the Board Secretary and wrote an email after our telephonic discussion that we have a preparatory meeting to strategize on how this matter could be disposed. I had suggested that since this is a legal matter maybe Adv Motlogeloa should form part of the meeting. I remember I had mistakenly thought the delegation to defend a matter was with the Chairperson only to realise that it is with the Board.

43. The Board secretary wrote an email on this matter to all Board members where a referral was made that I am usurping the roles of the Board Secretary and calling meetings. (See email of the 17 February 2021 hereunder).

*From: Kgabo Gabriel Mapotse*

*Sent: Wednesday, 17 February 2021 19:09*

*To: Mbali Myeni <molefemp15@gmail.com>; Chairperson Jane Thupana <jane.thupana@gmail.com>; Matsie Sophia Mooki <mookism@unisa.ac.za>; Mmatsie Mooki <mmatsie1972@gmail.com>; Albert Kekesi <albertkekesi@gmail.com>; Namso Baliso <namso.baliso@gmail.com>; David Mohale <Dmohale@dut.ac.za>; david mohale <dmohale@webmail.co.za>; Themba Dubazana <themba.dub@gmail.com>; Monnapula Motlogelwa <motlogelwam65@gmail.com>; thabo manyoni <Manyonithabo@gmail.com>; Thabo Manyoni <thabo@demarcation.org.za>; Greta Apelgren <apelgreng@gmail.com>*

*Cc: Muthotho Sigidi <muthotho@demarcation.org.za>; Thabiso Plank <thabiso@demarcation.org.za>; Thabiso Plank <thabisoplank@gmail.com>*

*Subject: Notice of Motion.pdf*

*Good day Director*

*The MDB received yesterday the attached notice of motion which claims millions of money against the MDB and I have discussions with the CEO that he want to only involve the **Chairman** of the Board and Adv Motlogelwa on this matter and subsequent to that I received an invite for the **the Chairman** of the Board to a meeting involving me , Adv Motlogelwa, **Chairman**, CEO and CFO and I advised the Chair that this matter is a Board matter cause the decision to defend or not should come from Board and appointment of attorneys is delegated to **the Chairman** which in itself does not mean the Board have relegated your accountability to the Chairman still is the Board accountable but the Chair shout it down with no reason advance by his office than to say he proceed with the meeting with no terms of reference and Board resolution like wen the Board mandate Board Member T Dubazana to defend on CEO matter .*

*There is a collapse of governance and wanton defence policies of the CEO on governance level by suppressing issues to deliberated at Board level but left to office the Chairman as if it is a Board my email to the Chairman bears reference.*

*I am concerned as the Secretary of the Board by this issue which is collapsing the governance processes were the Board is nothing but a confirmation platform of matters outside governance processes of MDB.*

*I do not know or proffered with a resolution of the Board suctioning the meeting or terms of reference of that meeting except give effect to CEO s desire as confirmed by CEO in writing that is a breed for governance collapse as **the CEO now is also the Secretary of Board and Adv Motlogelwa is the Board representative without Board resolution which applied to Board member Themba Dubazana.***

*Regards*

*Secretary of the Board*

*Adv KG Mapotse*

44. One would have expected a response from Board members, but only Themba Dubazana and Ms Apelgrein responded with Themba indicating he does not see anything wrong in the Chairperson having that meeting. Ms Apelgren-Narkedien's response talking to her experience as HOD in dealing with litigation matters. Why did the Board fail to entertain the matter which the Board secretary raised of governance collapse and other allegations thereof? What does this silence about these matters mean or has this matter been discussed somewhere?
45. Going back to the matter raised in paragraph 33 above, the Chairperson seeking to conclude the process contracted Mogale Mogashoa inc. to review the HTB report and initiate a process to lay all those matters to rest. The draft report was discussed by the office of the Chairperson and a communication sent to the drafters of the report that the report be revised in line with the TOR that were given.
46. The Board Secretary got the report and wrote a threatening email to me and the Chairperson dated the 08 July 2021 (see the email below) in which he indicated to me that he will deal with me even after his contract expires and that **I should not**

**poke the bear.** Unfortunately, the bear started striking before the contract expires. I will not and will never be intimidated by the kinds of Kgabo, I will continue to do my work as I should.

-----Original Message-----

From: Kgabo Gabriel Mapotse

Sent: Thursday, 08 July 2021 18:02

To: Thabo Manyoni <thabo@demarcation.org.za>; thabo manyoni <Manyonithabo@gmail.com>

Cc: Thabiso Plank <thabiso@demarcation.org.za>; Muthotho Sigidi <muthotho@demarcation.org.za>; David Rambau <david@demarcation.org.za>; Donald@dm-inc.co.za

*Subject: Report On The Initiation of Disciplinary Proceedings Based On Allegations of Misconduct*

*Good day Chair*

*I am in possession of the final signed report from Diale Mogoashoa Attorneys dated 30 June 2021 and letter with Annexure A directed to Diale Mogashoa Attorneys which purported to sway investigators to change the report to favour the employer narrative to fight the CoSec and thereby poking the bear with baseless falsehood and by law if the employer is not happy with the report let's go to Court and review it and you have already reviewed HTB consulting report and changed the Board resolution to give implicated employees final written warning as the employer which is unlawful and invalid in law. I know who is driving this agenda since but he must continue **to poke the bear and see who will laugh last and secret plans and meetings like yesterday one 07 July 2021 do not earn honour in the final analysis but untold unhappiness.***

*Regards*

*Kgabo*

From: Kgabo Gabriel Mapotse

Sent: Thursday, 08 July 2021 19:41

To: Muthotho Sigidi <muthotho@demarcation.org.za>



Cc: Thabo Manyoni <thabo@demarcation.org.za>; thabo manyoni <Manyonithabo@gmail.com>; Thabiso Plank <thabiso@demarcation.org.za>; David Rambau <david@demarcation.org.za>; Donald@dm-inc.co.za  
Subject: Re: Report On The Initiation of Disciplinary Proceedings Based On *Allegations of Misconduct*

*Hi Sigidi*

*You were part of the meeting on 07 July 2021 and Annexure A is self-explanatory as to your role and Alu was not present in that meeting hence you are copied.*

*This matter I take it seriously and I **will not left it lying even after my contract expires.***

***Do not poke the bear.***

*No one is above the law to induce lawyers to alter the report to favour his narrative.*

*Regards*

*Kgabos*

47. The above amounted to a threat to me and I could not bring the matter to the Board because I was told that I must not talk to the Board anymore. Did I take the threat seriously? Yes, I did but at the same time I have a responsibility to my contract which is to deliver on the strategic plan and the APP of the organisation and Adv. Kgabo Mapotse is causing unwarranted and unworthy distraction.

48. You will note that later, on the 09<sup>th</sup> of July 2021 he wrote to the Chairperson and all Board members the email hereunder. the Board members went mute on this regard. However, somebody types unfounded allegations about alleged sexual harassment and present it to the Board members and a special Board meeting is called urgently. Whether the meeting was called in line with section 15 of the Municipal Demarcation Act, I don't know until I am favoured with a written request that was made to the Chairperson by the majority of Board members for such a meeting to take place. Perhaps it was the very company secretary who called the meeting, otherwise the legality of the meeting might be in question:

*From: Kgabo Gabriel Mapotse*

Sent: Friday, 09 July 2021 6:53 AM

To: Thabo Manyoni <thabo@demarcation.org.za>; thabo manyoni <Manyonithabo@gmail.com>

Cc: Matsie Sophia Mooki <mookism@unisa.ac.za>; Mbali Myeni <molefemp15@gmail.com>; David Mohale <Dmohale@dut.ac.za>; Greta Apelgren <apelgreng@gmail.com>; Chairperson Jane Thupana <jane.thupana@gmail.com>; Albert Kekesi <albertkekese@gmail.com>; Themba Dubazana <themba.dub@gmail.com>; Namso Baliso <namso.baliso@gmail.com>; Monnapula Motlogelwa <motlogelwam65@gmail.com>; Thabiso Plank <thabiso@demarcation.org.za>

Subject: Non - Observance of the Parity Principle and Selective Implementation of Board Resolutions

Good morning **Chairman**

*Firstly ,I request your written reasons why your Office selectively implement Board resolutions relating giving of the warnings to Management as the Board resolved to discipline the CEO pursuant to the Board resolution which directed your office to implement but you wrote a report contrary to directions given by the Board of the meeting your **Chairmanship** was chairing.*

*Secondly why is the Board resolutions relating to the disciplining CFO and other managers not implemented by the CEO and but you quick to implement on me selectively may proffer me with the reasons why Chair as I expect even-handedness add leadership in that regard or are the policies of the Board adopted for other employees and not CEO and CFO.*

*Thirdly , I want clarity from you in terms of which law you can change the Board resolution as the **Chairman** of the Board .*

*Fourthly, why are not also dealing with other irregular expenditures which implicated the CEO for instance AG found that all legal fees in respect of Disciplinary Hearing of Adv T Mekuto which were incurred above R500k was irregular as we did not follow open tender process and the Motlatsi Seleke Attorneys incurred more than R2million*

*you left it out of the equation as it implicated the CEO, to protect the CEO and his cohorts.*

*I request you to provide me with reasons why you are selectively implementing the Board resolutions to exclusion relating to the CEO in matters you are directed by the Board and if you have other Board meeting with the CEO to reverse contrive strategy to write reports to fight the board resolution which are against him as the Chairman of the Board.*

*Finally, your Office is pushing for the payment of HOD allowance which is not supported by law and trying to adapt a resolution which is far- fetched.*

*I further request to be apprised by your Office why it rubber- stamp the altering of the Report from Diale Mogoashoa attorneys and who mandated the CEO to write them a letter of appointing them for the matters which the Board resolved which does not even cause a cent to MDB is spending money on legal Fees which are not even budget for and without procurement process followed by the CEO as the initial legal brief sanctioned by the Board was to defend the lease of building legal matter.*

*I shall appreciate your soonest response on this weighty non- compliance issues which borders on unfair labour practice and total collapse of governance where CEO is the one running the Board and events of the meeting of 07 and 08 July 2021 were CEO called meetings with David and Thabiso and after that instruct what Thabiso to write and give to you to sign as if it was your report is so telly and smacks mis- governances and impending governance collapse under your watch and leadership and I am raising this and copying the Board as this is so repetitive and not ever- ending and we had several meetings to no avail. I believe no one is above the law and parity principle is **the way to go in any employment and upon your responds I will pursue remedies available to me to achieve legality and escalate to other relevant institutions and your appointing authority.***

*Regards*

*Kgabo Mapotse*

49.If you analyse the above email, the email smack of serious disrespect for the person of the Chairperson and someone in the Board communicated the

deliberation of the special Board to the Board Secretary as I learned that he was not part of the meeting. This also means that he has an ally with some of the Board members who have joined hands to destroy the person of the Chairperson and the CEO.

50. This attack on the person of the Chairperson must stop and only the Board can stop it.

**Who is Adv. Mapotse?**

51. My view of Adv Kgabo Mapotse is someone who thrives in sowing divisions in Boards by having relationships with other Board members to destroy those that fight his corrupt intentions.

52. It is alleged that when he was a Company Secretary in the Transport Board in North West and the Board wanted to discipline him, he started similar shenanigans that lead to the whole Board being fired. He assumed the role of Board as Company Secretary and ultimately fired the CEO and later the CFO when the CFO refused to be cowed to sign an appointment of a company that was to provide secretariat services to the Board.

53. It is also alleged that he was the Chairperson of the Council for Compliance Professionals in 2015 where Adv Malahlela was his CEO, the same Adv Malahlela who came as one of the two Counsels to explain the legal opinion I referred to earlier in the memo. The same Adv Malahlela that Adv. Mapotse brought to the case of EM: Corporate Services irregularly. What has the Board done since. The Board is mute.

54. Adv. Mapotse did not even cover himself in glory as he confessed during the HTB interviews (when he was throwing other allegations against me on the 14<sup>th</sup> February 2020 the last sentence of paragraph S) that he has been friend with Adv Malahlela for some time and the Board put a blind eye to that confession.

55. Now that the Chairperson and the CEO started initiating and formerly charging Adv. Mapotse, he must find something to implicate both of them and the Chairperson

must be removed and CEO must be suspended. The Board will eventually not renew the CEO contract because he is a problem.

56. Adv. Mapotse is an Adv who does not care about what he writes, and will lie in confidence to get his way. If the Board had given itself time to read the allegations from the harassment letter, there are common threads- the word Chairman is his language, it wouldn't be far-fetched to say this was indeed his writing or dictation of what must be written.
57. He miscalculated his moves. During the ARC meeting to consider the AFS and the Annual Report on 26 July 2021, the AGSA indicated that it received the same allegations that have now been brought to the Board and they are of the view that this is sheer fabrication as that matter was dealt with last year when they (AG) looked at the whistle-blower report. Their view which is also my view was that the matter has no basis but a strategy to discredit the CEO and for the Board to find some reason not to renew the CEO's contract.
58. The AGSA said this on the 26 July 2021 and realising that the AGSA is not buying the story and the members of ARC did not even probe the matter any further, the matter lied dormant for few days.
59. On or about the 10<sup>th</sup> August 2021, charges are finally preferred to the Board Secretary, then suddenly a concocted letter of complaint purported to come from the Former Communication Specialist comes in dated 11 August 2021, I don't know who received it but an urgent special meeting is called for the 12<sup>th</sup> August 2021, and the Board without even questioning anything, decide to investigate.
60. **At this stage the Board seem to have taken a decision to investigate without the very response that you are affording me being heard, so in the eyes of the Board my response is just a formality, the Board has already decided. Board members may ask me how do I know about this, the email communication between the SCM and Board Secretary on Friday afternoon (before I received a communication from the Deputy Chairperson at about 19H24) confirms this. For ease of reference here is their discussion where I felt I should intervene:**

Sent: Friday, 13 August 2021 12:53

To: Kgabo Gabriel Mapotse <kgabo@demarcation.org.za>

Cc: Tintswalo Baadjie <Tintswalo@demarcation.org.za>; Muthotho Sigidi <muthotho@demarcation.org.za>

Subject: RE: Request for your Panel of Attorneys and SCM Policy

Importance: High

Hi Advocate Mapotse

Your email below has reference to this matter.

I'm responding to your email that you sent while I was asleep as I had official meetings in the morning until now.

As Company Secretary, I at least expected you to have regards for protocol and channel your request for information properly.

I'm not privy to board resolutions and I don't know what you are talking about and I do not want you to indulge me any further as that is none of my business.

The request for information must come through the office of the CEO to the CFO and eventually to myself and that is what protocol requires.

Even if I could fully decipher your very long sentence below, I wouldn't dare disregard protocol.

Send your request to the CEO (Muthotho Sigidi) in case you have forgotten his name.

Thank you,

Abel Maluleka

Supply Chain Management

From: Muthotho Sigidi  
Sent: Friday, 13 August 2021 13:21  
To: Abel Maluleka <Abel@demarcation.org.za>; Kgabo Gabriel Mapotse <kgabo@demarcation.org.za>  
Cc: Tintswalo Baadjie <Tintswalo@demarcation.org.za>  
Subject: RE: Request for your Panel of Attorneys and SCM Policy

Hi Abel,

I am not aware of a Board meeting that was held recently.  
I guess if there was a meeting held recently without my knowledge, the outcome of the meeting will be communicated to me And will be informed of the outcomes thereof and what the Attorney is requested for.

For now I haven't been informed of any matter requiring any Attorney and for what purpose.  
Maybe Kgabo will appraise me of the matter at play and will thus act and instruct you accordingly.  
In the absence of any communication received I am unable to give you or the CFO an instruction to source any attorney.

Regards

> On 13 Aug 2021, at 15:01, Muthotho Sigidi <[muthotho@demarcation.org.za](mailto:muthotho@demarcation.org.za)>  
wrote:

>

> Hi Kgabo,

>

> Are you saying revolves? Maybe you can appraise me of the matter so that I can  
assist in accelerating the matter.

> If the matter is about me, is HR aware of it ?

>

> Regards

>

> -----Original Message-----

> From: Kgabo Gabriel Mapotse

> Sent: Friday, 13 August 2021 14:03

> To: Muthotho Sigidi <[muthotho@demarcation.org.za](mailto:muthotho@demarcation.org.za)>

> Cc: Abel Maluleka <[Abel@demarcation.org.za](mailto:Abel@demarcation.org.za)>; Tintswalo Baadjie  
<[Tintswalo@demarcation.org.za](mailto:Tintswalo@demarcation.org.za)>

> Subject: Re: Request for your Panel of Attorneys and SCM Policy

>

> Hi Sigidi

> The matter **revolves** you and **you are conflicted**.

>

From: Kgabo Gabriel Mapotse  
Sent: Friday, 13 August 2021 15:12  
To: Muthotho Sigidi <muthotho@demarcation.org.za>  
Cc: Tintswalo Baadjie <Tintswalo@demarcation.org.za>; Abel Maluleka <Abel@demarcation.org.za>  
Subject: Re: Request for your Panel of Attorneys and SCM Policy

*The Deputy Chair and Apelgren will write you a letter about the Board resolutions on the issue and I will take it up with the Board that I can't get cooperation from you and your team to action Board resolution.*

*I shall leave it there.*

*Regards*

*Kgabo*

*Sent from my iPhone*

Eco Origins Office Park Block C1  
349 Witch-Hazel Avenue  
Highveld, 0157  
Tel: 012 342 2481/076 396 4464  
Email: [abel@demarcation.org.za](mailto:abel@demarcation.org.za)  
Web: [www.demarcation.org.za](http://www.demarcation.org.za)

From: Muthotho Sigidi  
Sent: Friday, 13 August 2021 16:37  
To: Kgabo Gabriel Mapotse <kgabo@demarcation.org.za>  
Cc: Tintswalo Baadjie <Tintswalo@demarcation.org.za>; Abel Maluleka <Abel@demarcation.org.za>  
Subject: RE: Request for your Panel of Attorneys and SCM Policy

Hi Kgabo,



I think reasoning with you is draining.

Whether the matter is about me or not it does not discount my Accounting responsibilities.

You can go ahead and take it up with the Board and indicate to them that I still have the responsibility to follow all due process.

If you were in the meeting that took a resolution why I you not sharing the resolution with me and I will sign off on the matter whether the matter involves me or not.

I will await the communication and direction from the Deputy Chair and the Chair of the Human Capital Committee.

Regards

61. All of the above communication meant that there is a matter involving me that needed to be procured which to me suggest that my response is just a formality it will never be looked at. I received your communication regarding the above matter at about 19H24 that is sometimes after the above emails.
62. When I was told that there is a resolution that was taken on the 30<sup>th</sup> June 2021 that relates to me engaging with the HCC on the CCMA matter and where the CEO's report should serve, I requested the minutes to see some context so that I could prepare accordingly.
63. As usual I read all the minutes and wrote to the Chairperson and indicated that I will participate, however two things caught my attention:
- a. One of the issues was the presentation of the outcomes of the CCMA arbitration hearing which Mr Dubazana presented. (I will come back to this later).
  - b. The other matter was the discussion relating to the renewal of my contract. In the deliberation there is a statement by the Board member name not indicated who wanted the Chairperson to provide "**extreme motivation**" "why my contract should be renewed. The Board further resolving to establish or seek a model on how this contract must be renewed and an

external person who will be objective (these were the words of the Chairperson HCC when I phoned to check if we could not have an urgent meeting to decide on the appointment of Senior Manager: Human Resources). My view is that the Board is well placed to objectively decide by itself and not outsource its power elsewhere, however if they want to do it that way it is fine.

**The summary of the above connections point to the following:**

64. Every time there is a matter of wrong doing on the part of the Board secretary, there must be a corresponding scandal or other matter about the CEO, why is the Board so silent about these matters.
- a. The Board secretary appoint irregularly, the two legal Counsels for the legal opinion, what follows is the cautionary memo to Board implicating the CEO and a story leaked to the City Press. He is investigated forensically and nothing is found the Board secretary is left untouched (the Board can't poke the Bear).
  - b. The Board considers the irregular expenditure incurred on the matter re- legal opinion and Adv. Mapotse is given a warning- a motion by SKG to litigate the Board for a lease awarded in 2019 emerges, almost after two years. (The CEO made the appointment decision however SKG realised they will be losing money- withdraw the case.
  - c. Board secretary is interviewed by HTB in February 2020, thereafter, there is a whistleblowing report to the Board against the CEO, untested, but is rushed through without due process of the whistle blowing policy being followed.
  - d. The Board takes a decision to direct the Chairperson to ask the Board secretary and the CEO if they will be amenable for the renewal of their contracts. The CEO affirms and the Board secretary declines. The Chairperson must provide extreme motivation why he wants to renew the CEO's contract.
  - e. The review report by Diale and Mogashoa Attorneys re- the matter of HTB report is issued where it exonerates the CFO and finance manager for any wrong doing,

but affirm that the Board secretary acted malafide and therefore charges must be preferred. Charges are preferred and immediately thereafter not even two days after, a letter implicating the CEO of sexual harassment spring from nowhere. Are these coincidences?

- f. We submitted HCC committee documents for the meeting of the 11 August which was subsequently postponed to the 18<sup>th</sup> August, we worked and agreed on the agenda, out of nowhere there is an agenda item which was never sanctioned and approved by me. The item however; is about job grading for Board Committee Officers from the Board Secretary that was never discussed with me as I have no employee in the organisation that has written to the organisation for a job review. I guess the Chairperson of HCC agreed to this item and in so doing allowed herself to create another administration (of the Board Secretary) within the administration.
- g. Similarly, when he saw that we have submitted items on the insourcing of the three services; namely, Cleaning services, security and internal audit, no the CEO want to create a platform for his cleaning baby mama. How will Bulie know about the items in the HCC if it is not somebody that we all know and do not want to touch him because we are afraid to poke the bear? All shenanigans start in this committee whilst in other committees we discuss things objectively – in my view it is because the Board Secretary has no clue about these activities in other committees and has found fertile ground at HCC to direct his activities as this is the committee that can be able to immediately deal with enemy the CEO. You can see through the email to all of you from the Chairperson of the committee (it looks like she was the first to know) where the suggestion is that I must be summarily suspended without practically analysing the matter.

**The matter that I referred to earlier on paragraph 63 (b), the behaviour of Mr Dubazana and how he; according to me is the Chief Ally of the Board secretary and in my view fit into what the Board secretary said when he said he will deal with me even after his contract expires.**

- 65. Unlike other Board members that I would have encountered in the local government environment, I encountered him when he joined the Board with other members.

66. He came across as a very knowledgeable man in the area of Labour Relations and few elements in Corporate Services. I engaged him when we interviewed the Executive Manager: Corporate services as one of the panel members.
67. During one of the meetings that we held with Human Capital Committee as we had just finished the discussion about the implementation of job evaluation with the context of the levels in the public services he asked me whether I was being paid the 10% non-pensionable allowance and I responded that I am not as I was of the view that the Board resolution was about the adoption of the DPSA structure as per paragraph 15 of the MDB policy, however, I said I will have to check the 2007 Board resolution.
68. Indeed, as an administrator I checked the archives and found that the Board adopted the **dpsa** system. Contrary to all the noise about the matter I never wrote any request to HR, I just said just check if that possibility is there and they presented a memo that when I saw it I said the committee cannot consider this because it is just not good enough. I had come to realize that Mr Dubazana pays attention to details and knew that he will poke some holes in the report.
69. Indeed, the matter was sent back for HR to source a legal opinion and to get an opinion from the **dpsa**. From this meeting an unholy alliance started emerging where the Board Secretary and Senior Manager started colluding by not providing the HCC with all the information and they were not giving me any sight of the documentation.
70. On the 05<sup>th</sup> of August 2020, I erroneously (for some reason I was not meant to get sight of this) received the documentation of the HCC committee that was going to sit on the 11<sup>th</sup> of August 2020.
71. I then realised that critical information was not provided to the **dpsa** for it to provide information/opinion informed by our policies. I knew that Mr Dubazana was not going to miss that but I took it upon myself to write a memorandum to the Chairperson of the committee to sensitize her and the committee, of some omitted documents specifically the Board resolution and the Board policy. The matter was

never discussed in that committee meeting and I then realized that there is some form of opposition that has developed towards the matter.

72. In one of the discussions where we were discussing the matter of CCMA ( i.e. matter between the former EM: Corporate Services and the MDB) and the offer that the Board said the Board Secretary should communicate or provide to the former EM: Corporate Services for her to stop the CCMA case, it appeared that the Board secretary did not give the full version of the Board. Mr Dubazana advised correctly that we could not discuss the matter based on the information that was received from Adv Mekuto as the matter was still in progress at the CCMA. The bottom line was that Adv Mapotse circumvented the Board decision.
73. Mr Dubazana discussed the matter of SARS with us but we indicated that tax matters are individual matters and I asked the CFO nevertheless to assist if possible. This seems to have changed him to be my adversary.
74. Fast forward the Board took a decision based on the recommendation of HCC not to pay the 10% non-pensionable allowance and elect Mr Dubazana to represent the Board in the CCMA.
75. The resolution of the Board (23 November 2020) which in my view was the mandate he was given was to go to CCMA and ask for a separation of Conciliation and arbitration as the CCMA wanted to handle the two simultaneously.
76. Mr Dubazana raised matters that were not part of the resolution when he raised a point in limine and matters of jurisdiction. That for me was a circumvention of Board resolution.
77. The CCMA then invited the parties to an Arbitration on the 10<sup>th</sup> June 2021. The Chairperson invited me, the Board secretary and Mr Dubazana to a pre-arbitration hearing. The Board secretary through an email communication copied to me and Mr Dubazana dated the 28 May 2021, correctly indicated that he cannot participate in the pre-arbitration meeting to quote his actual words;” ***In terms of the CCMA rules I am not eligible to attend this pre arb conference meeting as I am a witness in this matter I penned down a legal opinion to the HC Committee***

***and the Board and it is only representatives of employer or applicant who should attend the pre - arb conference to try to find each other and narrow issues and have pre - arb minutes signed by both parties to be handed in at arbitration as points in disputes and common causes and matters the Commissioner is called upon to decide and rule on."***

78. Indeed, on the day of pre-arbitration the Board Secretary did not attend and we agreed that the applicant will represent himself and the respondent will be represented by Mr Dubazana (Paragraph 19 of the pre-arb minutes).

79. When we finalised the pre-arbitration meeting, the Chairperson called me the following day and chastised me of bulldozing Mr Dubazana into agreeing with everything, I indicated to him that I have not even said anything as 90% of what was written was dictated by the Board member. I only suggested that we call the Chairperson before signing the minutes but Mr Dubazana advised against it saying he has all the mandate to do it. Even at that point Mr Dubazana was not aware of the Board resolution, the policy and all other correspondences that ensued between me and the Board Secretary, where after the Board resolution was taken, I requested the minutes of the Board from Board secretary and I never got any. He seemed shocked, but if it was a matter about me the Board secretary would have called or liaised with the Chairperson and get the minutes.

80. To my surprise the Board Secretary was present in the hearing with Mr Dubazana. I called the Chairperson to ask why he was there; the Chairperson didn't know about that arrangement.

81. This to me meant Mr Dubazana has not been objective all along and now that I also saw his report to the Board regarding the matter fabricating stories that were not discussed at CCMA combined with the ranting of the Board secretary in the email attached above tells me that there is some alliance against me which is now escalating to the Chairperson. I wrote to the Chairperson that I will pursue the issue of the 10% no further because he is now cited by the Board secretary as the person behind the matter and I have never outsourced my battles to someone as punted by the Board secretary.

82. Can I trust the Board member with that kind of unprofessionalism to be objective in any deliberation that is discussing the matter relating to the CEO- I will not. I

have an inkling that the network might be bigger than one person but this is what I observed when I was dealing with Mr Dubazana that he cannot be trusted or relied on.

### **My overall conclusion**

83. There is an attempt by the Board Secretary to build a case and reasons that will justify what does not require justification, not to renew my contract.
84. That being the first trophy, the second one is to discredit the Chairperson and if it was possible he would have been removed by now as he is seen to have protected the CEO by allowing a fair and a just process to look at all the matters that were raised against me.
85. This I think is what some of the Board members are looking for, otherwise even a blind person can see that this is a fabrication of the highest order and I am certain that all Board members who are electing to be mute, and if indeed there were instances where a matter could secretly be voted maybe the voices of reason would be found. For now, I see the consequences of silence.
86. My last take before any investigation is done I want the Board to invite Bulie to the Board meeting that will discuss this matter, so that we get this out of our way in a professional and fair manner for good. Anything less than that I will not accept I am tired of Adv. Kgabo Mapotse and his behaviour.
87. I must say I am very disappointed at the Board for even sitting down and discuss it and resolve to even investigate even before my own response is received.
88. I must indicate to the Board that I have decided that I will take legal Counsel on all these matters and will be writing to both the Appointing authority and parliament on the kind of treatment I am subjected to. I am being distracted from performing my duties to the best of my abilities by this constant harassment I have been faced with for two years. The organisation has never performed as well as it is performing since its existence and instead of me being left to continue performing my responsibilities, I am constantly being investigated based on rumours and gossip like allegations. The country is in a very tight fiscal environment and yet the organisation spend money on pointless investigations instead of on its constitutional mandate. The board does not seem to be worried about the person who is bringing the organisation into disrepute by linking stories to the media, unfounded allegations based on gossip and innuendos.