



employment & labour

Department:
Employment and Labour
REPUBLIC OF SOUTH AFRICA

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REPORT TO THE STANDING COMMITTEE ON PUBLIC ACCOUNTS (SCOPA) ON SIU DISCIPLINARY CASES (UIF)

1. BACKGROUND:

The Special Investigation Unit was mandated through Proclamation No. 23 of 2020 to conduct an investigation into the affairs of all State Institutions in respect of the procurement or contracting of goods, works and services during the National State of Disaster. One of the matters which the SIU investigated was the appointment of Media Houses to conduct radio advertisement campaigns regarding the Covid-19 Temporary Employee/Employer Relief Scheme (C19 TERS).

A total of nine (9) officials were implicated in the SIU Report regarding their roles in the irregular appointment of five (5) Media House namely, Media Houses, MMG, MSG, Media Mark, United Stations and ESAT TV. The appointed Media Houses were classified as sole service providers whilst they were not sole service providers. The Fund incurred irregular expenditure amounting to R 6 144 351.68.

The SIU recommended that the Fund should institute disciplinary action against the implicated officials. As per the SIU recommendations, the Fund instituted disciplinary hearings against the afore mentioned officials in line with the applicable disciplinary prescripts in the Public Service i.e. Resolution 1 of 2003 (Disciplinary Code & Procedure for The Public Service) and Chapter 7 of the SMS Handbook (Disciplinary Code & Procedure for SMS Members).

The Departmental Representatives and Presiding Officers were appointed in line with the applicable disciplinary prescripts in the Public Service. In terms of the disciplinary prescripts in the Public Service the following are roles of the Presiding Officer/Chairperson and Employer Representative: -

- The Department appoints a Presiding Officer/Chairperson and Employer Representative to deal with a disciplinary hearing
- The Presiding Officer/Chairperson must be impartial and objective
- The Presiding Officer keeps the record of the notice of misconduct and disciplinary hearings proceedings
- The Presiding Officer reads the notice of misconduct and charge sheet on record and start the hearing
- The representative of the employer will lead evidence on the conduct that gave rise to the hearing. The employee representative may question employer witnesses.
- The employee will be given an opportunity to lead evidence. The employer representative may question employee witnesses.
- The Presiding Officer may ask any witness questions for clarification
- The Presiding Officer decides if the employee has committed misconduct and must inform the employee of the finding and reasons for it
- Before deciding on a sanction the Presiding Officer must give the employee an opportunity to present relevant circumstance in mitigation. The representative of the employer will present aggravating circumstances
- The Presiding Officer must communicate the final outcome of the hearing to the employee.

If the Presiding Officer finds that the employee has committed misconduct, he/she must pronounce a sanction, depending on the nature of the case and the seriousness of the misconduct, the employee's previous record and any mitigating or aggravating circumstances. Sanctions consist of: -

- Counselling
- A written warning
- A final written warning;
- Suspension without pay, for no longer than three months;
- Demotion
- a combination of the above; or
- dismissal

The Role of Presiding Officer Should be Impartial

With reference to *Workplace Law, 12thed.* (John Grogan) states: ***“The point of a disciplinary hearing is to enable the Presiding Officer to weigh the evidence for and against the employee and to make an informed and considered decision. The Presiding Officer must have, and keep an open mind throughout the proceedings”.***

2. SUMMARY OF CHARGES PER INDIVIDUAL AND STATUS OF CASE:

No	Date	Company Involved	Amount Involved	Charges	Official Involved	Status
1.	13/12/2020	MMG, MSG, Media Mark, United Stations, ESAT TV (Media Houses)	R6 144 351.68	Failure to advise the committee (BAC) to prevent the incurred irregular expenditure by supporting the recommendation for the procurement of service providers to run an advertising campaign for the awareness of C19 TERS whom were classified as sole service providers whilst they were not sole service providers.	Director: Communication & Marketing	The official was found guilty of misconduct by the Presiding Officer. Final Written Warning issued as Sanction. Finalised & Closed
2.	13/12/2020	MMG, MSG, Media Mark, United Stations, ESAT TV (Media House)	R6 144 351.68	Failed to advise the Commissioner not to approve an irregular expenditure in the submission for deviation from the normal procurement processes to appoint service providers to run an advertising campaign for the awareness of C19 TERS classifying	Deputy Director: Communication and Marketing	The official was found guilty of misconduct by the Presiding Officer. Final Written Warning issued as Sanction. Finalised & Closed

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No	Date	Company Involved	Amount Involved	Charges	Official Involved	Status
				them as sole service provider whilst they were not sole service providers.		
3.	13/12/2020	MMG, MSG, Media Mark, United Stations, ESAT TV (Media House)	R6 144 351.68	Failed to advise the committee (BAC) to prevent the incurred irregular expenditure by supporting the recommendation for the procurement of service providers to run an advertising campaign for the awareness of C19 TERS whom were classified as sole service providers whilst they were not sole service providers.	Deputy Director: ICT	The official was found guilty of misconduct by the Presiding Officer. Written Warning issued as Sanction. Finalised & Closed
4.	13/12/2020	MMG, MSG, Media Mark, United Stations, ESAT TV (Media House)	R6 144 351.68	Failed to advise the committee (BAC) to prevent the incurred irregular expenditure by supporting the recommendation for procurement of service providers to run an advertising campaign for the awareness of C19 TERS whom were classified as sole service providers whilst they were not sole service providers.	Assistant Director: Purchasing Stores &	The official was found guilty of misconduct by the Presiding Officer. Written Warning issued as Sanction. Finalised & Closed

No	Date	Company Involved	Amount Involved	Charges	Official Involved	Status
5.	13/12/2020	MMG, MSG, Media Mark, United Stations, ESAT TV (Media House)	R6 144 351.68	Failed to advise the Commissioner not to approve the submission to deviate from the normal procurement processes to appoint service providers to run an advertising campaign for the awareness of C19 TERS that classified them as sole service provider whilst they are not sole service providers.	Director: SCM	The official was found guilty of misconduct by the Presiding Officer. The official was issued with a One (1) Month Salary Suspension as Sanction. Finalised & Closed
6.	13/12/2020	MMG, MSG, Media Mark, United Stations, ESAT TV (Media House)	R6 144 351.68	Failed to advise the committee (BAC) on the Supply Chain Management Policies.	Deputy Director: SCM	The official was found guilty of misconduct by the Presiding Officer. Final Written Warning issued as Sanction. Finalised & Closed
7.	13/12/2020	MMG, MSG, Media Mark, United Stations, ESAT TV (Media House)	R6 144 351.68	Accepted recommendation of BAC to deviate from normal procurement process to appoint service providers to run advertising campaigns for the awareness of Covid -19 TERS, based on sole provider status whilst they were not sole service providers.	Director: Financial Reporting	The official was found guilty of misconduct by the Presiding Officer. Final Written Warning issued as Sanction by the DG. Finalised & Closed
8.	15/04/2020	MMG, MSG, Media Mark, United Stations, ESAT TV (Media House)	R6 144 351.68	Gross negligence for the appointment of five (5) service providers based on sole provider	Chief Financial Officer	The disciplinary hearing has been finalised. Awaiting verdict by the Presiding Officer.

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No	Date	Company Involved	Amount Involved	Charges	Official Involved	Status
		House)		status in circumstance where the five (5) service providers were not sole providers.		
9.	06/05/2021	MMG, MSG, Media Mark, United Stations, ESAT TV (Media House)	R6 144 351.68	Gross negligence for the appointment of Media Houses on sole provider status whilst the service providers were not sole providers.	Commissioner UIF	The official was found guilty of misconduct by the Presiding Officer. The official was issued with a Final Written Warning and One (1) month Salary Suspension as Sanction. Finalised & Closed

3. CONCLUSION:

In terms of the disciplinary code and procedure for employees on salary level twelve (12) Middle Management Services (MMS) and below, the code makes provision for appeal. However, Chapter 7 of the SMS Handbook does not make provision for appeal but the SMS member may declare a dispute with the Council (GPSSBC).