**Report of the Joint Committee on Ethics and Members’ Interests on the Alleged Contravention of the Code of Ethical Conduct and Disclosure of Members’ Interests: Honourable Pinky Kekana, MP: Deputy Minister in the Presidency**

The Joint Committee on Ethics and Members’ Interests (“the Committee”) having considered the complaint against Hon. P Kekana, MP, reports its finding and recommendation of penalty, in terms of item 10.7.8.1 of the Code of Ethical Conduct and Disclosure of Members’ Interests (“the Code”), as follows:

**INTRODUCTION**

On 26 May 2022 the Speaker of the National Assembly, Honourable Mapisa-Nqakula, MP referred Part 4, Volume 2, “The Free State Asbestos Project Debacle / The Free State R1 Billion Housing Project Debacle” of the Judicial Commission of Inquiry into State Capture Report (“the Report”) concerning Honourable Pinky Kekana, MP, the Deputy Minister in the Presidency (“the Member”) to the Joint Committee on Ethics and Members’ Interests (“the Committee”).

On 6 June 2022 the Committee resolved to process the referral by the Speaker of the NA in terms of item 10. 2.2.3 of the Code of Ethical Conduct and Disclosure of Members’ Interests (“the Code”). Item 10.2.2.3 provides as follows: “*The Committee acting on its own may consider any breach or alleged breach of the Code*.”. The Member was duly notified and was requested to provide written representations on the content on the Report.

The allegations in the Report against the Member predates her appointment as the Deputy Minister in the Presidency.

**SUMMARY OF THE COMPLAINT AS CONTAINED IN THE REPORT**

**AD PAGES 429 to 430, 435, and 441 to 443 OF THE REPOR**T

**BACKGROUND**

During the Asbestos audit, secret beneficiaries who were perceivably politically connected people were identified as people to whom payments were made. These people on the face of it appear not to have provided any goods and services to Blackhead Diamond Hill Joint Venture, so as to justify the payments made to them. Different payments were made by Mr Sodi or Mr Mpambani through Blackhead or 605 consulting.

The Commission was unable to verify bank accounts. Mr Sodi was asked to explain the payments.

AD PARAGRAPHS 875 AND 876- PAGE 435 OF THE REPORT

* 1. Mr Sodi could not explain why he made payments totalling R170 000 (one hundred and seventy thousand rand) to the Member.
	2. He described her as someone whom he considered to be a “sister.”

**SUMMARY OF RESPONSE BY THE MEMBER**

The Member was requested to provide a reply to the compliant. She provided a response dated 20 June 2022.

The Member indicates that she received a payment of R140 000 (one hundred and forty thousand rand) in 2015 and R30 000 (thirty thousand rand) in 2017, respectively. She further states that she accepts the finding of the Zondo report that she received a payment of R170 000 (one hundred and seventy thousand rand) from Mr Sodi. She indicates that she was not aware that she had to disclose the money that she received from Mr. Sodi and that had she been aware of the disclosure requirements, she would have disclosed the money that she received.

The Member indicated that the Report incorrectly indicates that she was an MEC in Limpopo at the time when she received the money from Mr Sodi. The Member indicates that she was a Member of Parliament when she received the money from Mr Sodi.

She explained that she and Mr Sodi are close family friends and therefore she was not required to repay the money to him.

The Member asked the Committee to treat her explanation for why she received the money, as confidential. Having heard the explanation, the Committee agreed to treat the explanation as confidential and not to make the reason(s) public. The Committee agreed to only release information that part of her explanation was based on medical reasons.

**FINDING BY THE COMMITTEE**

The Committee found that the Member breached item 10.1.1.1 of the Code read with item 9.3.7 of the Code. That the Member failed to comply with the requirements of the provision for disclosing interests.

**THE CODE**

Item 9.3 of the Code provides as follows:

“9.3 The following kinds of financial interests are registrable interests and must be disclosed:

9.3.1 … 9.3.6

9.3.7 any other benefit of a material nature;”

**PENALTY/ SANCTION**

The Member was afforded an opportunity to address written representations to the Committee on the penalty. A summary of the Members’ written representations is set out below. The Member states-

1. She was a Member of Parliament at the time when she received the money from Mr Sodi.

2. Her failure to disclose the receipt of the money was not intended to mislead Parliament.

3. She was friends with Mr Sodi’s wife who asked Mr Sodi for money for the Member.

4. At the time when Mr Sodi gave her money, it was not intended for any “kickbacks” or “bribes”.

5. The Member asked that all other details be kept confidential.

**THE CODE / PENALTY**

Item 10.7.7 of the Code proves as follows.

10.7.7.1 The Committee must recommend the imposition of one or more of the following penalties where a Member has breached clauses 10.1.1.1 and 10.1.1.2 of this Code

(i) a reprimand in the House;

(ii) a fine not exceeding the value of 30 days’ salary;

(iii) a reduction of salary or allowances for a period not exceeding 30 days; or

(iv) the suspension of certain privileges or a Members’ right to a seat in Parliamentary debates or committees for a period not exceeding 30 days;

(v) in event of a breach considered minor by the committee the Member may be ordered to rectify the breach and be counselled on the requirements of the Code.

**THE COMMITTEE RECOMMENDATIO ON THE PENALTY**

Having considered the reasons offered by the Member for receiving the money from Mr. Sodi, the Committee agreed to recommend to the House to impose the penalty found in item 10.7.7.1.(i) of the Code, i.e.

“that the Member be reprimanded in the House.”

However, owing to the extent of the confidential information that the Member shared with the Committee, the Committee agreed to request of the House to impose the reprimand on the Member, in her absence.

REPORT TO BE CONSIDERED

**BEKIZWE NKOSI LYDIA MOSHODI**

**CO-CHAIRPERSONS OF THE JOINT COMMITTEE ON ETHICS AND MEMBERS’ INTERESTS**