

PUBLIC PROTECTOR
SOUTH AFRICA

Settlement Agreement
File Ref no:

PUBLIC PROTECTOR SOUTH AFRICA

**IN THE MATTER RELATING TO A NEGOTIATED SESSION PURSUANT TO
SECTION 6(4) (d) THE PUBLIC PROTECTOR ACT, 1994**

INVOLVING A CONFLICT BETWEEN:

**The Dept. of Arts and Culture represented by Mr S Xaba and Ms M Mokganedi
and SARA, represented by Mr F Nyatheia.**

SETTLEMENT AGREEMENT IN TERMS OF SECTION 7(4) (a) and (b)

1. BACKGROUND

1.1 The South African Roadies (SARA) approached the Department of Arts and Culture for funding. Objectives of SARA are skills development and training.

1.2 SARA submitted a proposal to the Department of Arts and Culture in 2010. A request for funding was made for skill development and training.

1.3 There is a long outstanding relationship between the parties, i.e. the Department of Arts and Culture and SARA.

1.4 The Department of Arts and Culture allocates funds to NGO's in accordance with the department's strategic objectives, affordability and cannot commit funding to Institutions without sufficient funding.

1.5 A moratorium was placed on ad hoc funding during the 2010/2011, *FN*
monies/funding not assigned to a specific Institution.

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1.6 Monitoring of projects is monitored by requesting reports from Institutions funded. Included in the contract is a right to inspect and monitor.

1.7 The Department conceded owing SARA 10% of the R85 000 (R85 000).

2. CONCESSIONS BY PARTIES

2.1 In 2009 financial year, SARA submitted a proposal to the Department for funding of R1 729 145.00. The Department of Arts and Culture considered the proposal and funded SARA for R1 million. The matter was resolved. Referral of this matter to the Public Protector was an error.

2.2 The issue that was brought to the Public Protector SA, perceived outstanding was the non- payment of the 10% of the R850 000

2.3 Through the negotiation process, it was discovered that the Department offered to fund SARA to an amount of R850 000.00 on a proposal they submitted to the Department.

2.4 The Department paid SARA 90% of the R850 000 and the outstanding R85 000 will be paid upon submission of reports and audited financial statements by SARA.

2.5 The Department acknowledges that the projects of SARA are in line with the Strategic objectives of the Department and that the relationship shall be maintained.

3. The Public Protector in terms of the Public Protector Act, 1994, decreed that the appropriate methodology for the resolution of the complaints would be Alternative Dispute Resolution, specifically interest-based negotiation. At a joint meeting facilitated by the Deputy Public Protector, the parties agreed on a procedure for the consideration of the applications to give effect to the

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relevant legislation, more particularly the Promotion of Administrative Justice Act 3 of 2000 ("PAJA"), the Constitution of the Republic of South Africa 108 of 1996.

4. This agreement has been entered into between the parties with the aim of improving the relationship between the parties and in the spirit of Ubuntu, Batho Pele principles and good faith.
5. The parties undertake that in their future dealings with each other regarding the applications, they will seek first and foremost to identify areas of concern to either party, and then jointly find solutions in the spirit of compromise and reasonableness and with a view to facilitating due process as set out in the Security Access Restrictions Policy of the City.
6. The parties wish the terms of their agreement to be reduced to writing.
7. NOW THEREFORE the parties agree as follows:

7.1 SARA undertakes to submit the Report and audited financial statement to the Department by Friday, 24 February 2012.

7.2 The Department undertakes to consider the reports and shall pay the 10% owed to SARA within 30 days after accepting the report. A letter confirming the acceptance of the report shall be sent to SARA.

7.3 Parties shall continue to engage each other regarding future funding henceforth and that all communications from SARA should be directed to Mr Glen Masokane.

7.4 All other issues relevant to funding and affairs of SARA shall be addressed to the Department through Mr Masokane as indicated above.

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7.5 The Department shall respond to a proposal made by SARA requesting assistance for the renovation of SARA building.

7.6 The Public Protector SA shall monitor the implementation of this agreement.

7.7 Parties agreed that old issues shall not be raised and all parties shall endeavour to start on a clean slate on all matters relating to funding and relationship.

THIS SIGNED AND DATED AT PRETORIA ON THIS 17 Feb DAY OF
NOVEMBER ~~15~~ 2012



Department of Arts and Culture

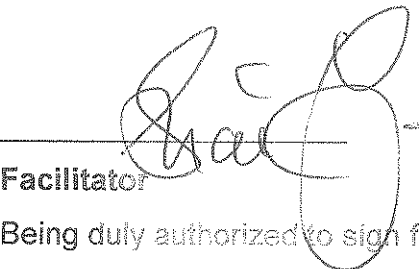
Being duly authorized to sign for and on behalf of the Department of Arts and Culture.



Complainant: Mr F Nyathela ID: 6010075714082



Assisted by Mr M Motshoba ID: 4908065442087



Facilitator

Being duly authorized to sign for and on behalf of the Public Protector South Africa.

PUBLIC PROTECTOR SA QUALITY ASSURANCE
AND INTERNAL REVIEW

Date reviewed: 17-02-2012

Person reviewing: Adv MTSU a/c

Signature: [Handwritten Signature]