IN THE HIGH COURT OF SOUTH AFRICA

WESTERN CAPE DIVISION, CAPE TOWN

CASE NO: 662/24

In the matter between:

ELIZABETH DIPUO PETERS	Applicant
and	
THE SPEAKER OF THE NATIONAL ASSEMBLY	First Respondent
THE CO-CHAIRPERSONS OF THE NATIONAL COUNCIL OF PROVINCES	Second Respondent
ACTING REGISRAR OF MEMBERS INTERESTS ADV A GORDON N.O.	Third Respondent
The CHAIRPERSON OF THE JOINT COMMITTEE ON ETHICS AND MEMBERS INTERESTS	Fourth Respondent
THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA	Fifth Respondent
#UNITEBEHIND NPC	Sixth Respondent
ABDURRAZACK "ZACKIE" ACHMAT	Seventh Respondent
ZUKISWA "VUKA" FOKAZI	Eighth Respondent

SIXTH RESPONDENT'S ANSWERING AFFIDAVIT

(PART A: INTERDICT PROCEEDINGS)

I, the undersigned,

ZACKIE ACHMAT

do hereby make oath and state that:

1. I am an adult male political activist and a director of **#UNITEBEHIND NPC**, the sixth respondent in this matter. I depose to this affidavit on behalf of the sixth to eighth respondents in this matter.

2. The statements deposed to in this affidavit are to the best of my knowledge both true and correct, and fall within my personal knowledge or belief, unless the contrary appears from the context.

3. Where I make legal submissions and conclusions herein, I do so on the advice of the sixth to eighth respondents' legal representatives, whose advice I believe to be correct.

WHAT IS AT STAKE IN THIS APPLICATION?

4. Parliament represents all the people in the Republic, and it must ensure government by the people. The powers of Parliament include the duty to appoint the President, legislate, scrutinise and oversee action by the Executive and to ensure people's participation in its work.

5. Members of Parliament must ensure accountability, openness and responsiveness to the people they represent, and the same applies to all

members of the Cabinet. One of the main tasks of Ministers is to ensure that their departments and state-owned entities such as the Passenger Rail Agency of South Africa (**PRASA**) fulfil their constitutional and legislative mandates when they address the needs of people. In bringing this application the former Minister of Transport, Ms Dipuo Peters, seeks to escape accountability and a small measure of justice for her role in state capture, corruption, mismanagement and maladministration at PRASA.

6. One of the most important duties in which Minister Peters failed is her duty as the executive authority responsible for PRASA in terms section 63 (2) of the Public Finance Management Act (No.1 of 1999), which states:

> "The executive authority responsible for a public entity under the ownership control of the national or a provincial executive must exercise that executive's ownership control powers to ensure that that public entity complies with this Act and the financial policies of that executive."

7. When she was the Minister of Transport, Minister Dipuo Peters was accountable to Parliament as the executive authority responsible for PRASA. Our Parliament has failed and continues to fail in its obligation to hold Ms Peters, other former Ministers, the current Minister and the PRASA Board of Control, accountable for state capture, corruption, fraud, mismanagement and maladministration. These acts constitute criminal offences under the PFMA and the Prevention and Combatting of Corrupt Activities Act (Act 12 of 2004).

8. Former Minister Peters also failed to comply with the Executive Ethics Code which falls within the purview of the President. After receiving the Zondo Commission Report, President Cyril Ramaphosa failed to take action against Ms Peters. The President was and remains under a duty to take action against for Minister Peters in terms of the Constitution. Instead, President Ramaphosa promoted Ms Peters to become the Deputy-Minister for Small Business Development. President Ramaphosa is the Fifth Respondent in this matter.

9. Ms Peters is not a novice in these matters. She has served as an MP, a Member of the Executive Council for Health in the Northern Cape, Premier of the Northern Cape and Minister of Energy over the last 30 years.

10. Over the last 40 years, Ms Peters has been a member and leader of the African National Congress (**ANC**) and its different supporting organisations. She has been deployed and redeployed by the ANC and its various Presidents over this period. Ms Peters owes her position as an MP to the ANC and she has never faced a direct election by the people in South Africa.

11. Should Deputy-Minister Peters succeed in this urgent application to halt her suspension as an MP, other MPs implicated in corruption or against whom such findings have been made will be emboldened. The rights of our people to justice and accountability for state capture, corruption, fraud, maladministration, mismanagement and nepotism at every level of government will be thwarted and the Constitution itself would become meaningless.

OVERVIEW OF OPPOSITION

12. The sixth to eighth respondents' oppose the relief sought by Minister Peters, on the following grounds –

12.1. First, the application does not warrant urgent treatment having regard to the applicant's dilatory conduct. The applicant, on her own version, elected not to progress her complaint in December 2023 (despite knowing about the impugned decision on 28 November 2023), and thereafter, sought an urgent hearing on grossly truncated time periods. The applicant's conduct fails to comply with the practice directives of this Division of the High Court and constitutes an abuse of process. I address this failure in more detail below. The matter falls to be struck from the roll.

12.2. Second, and if the matter is not struck from the roll, the applicant does not assert any right which requires protection by way of an interdict. That should be the end of the matter. Under the common law test, the *prima facie* right that a claimant must establish for the purpose of obtaining interim interdictory relief is not merely the right to approach a court in order to review an administrative decision, but a right to which, if not protected by an interdict, irreparable harm would ensue. I respectfully aver that the applicant has failed to identify a right that is threatened by an impending or imminent irreparable harm.

12.3. Third, and in any event, the review application in Part B is bad in law, given that:

12.3.1. the Code of Ethical Conduct and Disclosure of Members' Interests for Assembly and Permanent Council Members ("**Code of Conduct**") applied to the applicant, regardless of whether the applicant is a member of the executive or not. Section 3.1 of the Code of Conduct is clear in this regard, which states:

> "The Code applies to all Members of Parliament including those Members who are Members of the Executive, however Members of the Executive are also subject to the "Handbook for Members of the Executive and Presiding Officers"." [own emphasis]

12.3.2. The applicant was well aware of the facts of the complaint and her suggestion that she was caught unawares as a result of annexures not being included in the complaint is dishonest. The list of sources, which the applicant calls 'annexures' were all public documents and entirely obtainable by the applicant and by the Ethics Committee. The allegations in this regard are disputed.

12.3.3. The applicant has been found responsible on the same facts by multiple independent entities including the High Courts, the Supreme Court of Appeal and the Judicial

Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector and Organs of State chaired by the Deputy-Chief Justice Raymond Zondo (the Zondo Commission).

12.3.4. The Auditor-General's Annual Report on PRASA for the 2013-2014 financial year already set out the criminal breaches of the PFMA in the Swifambo locomotives contract. Swifambo forms a key aspect of this application and it is the epitome of state capture at PRASA because the beneficiaries of corruption include the ANC, politically connected business people, cadres deployed to PRASA, and companies including the multinational Voslõh Spain.

12.3.5. The applicant raises no evidence to counter these unimpeachable factual findings.

13. I substantiate these submissions, to the extent possible given the grossly unreasonable timelines set out in the notice of motion, more fully below.

LACK OF URGENCY

14. I have been advised that urgency is a matter of degree. I am also advised that an applicant must allege in its founding affidavit: Firstly, why the matter is urgent; secondly, why the applicant cannot be afforded substantial redress at a hearing in due course; thirdly, justification for the extent of truncation of the

usual time periods. I respectfully aver that the applicant has not satisfied these requirements.

15. The "impugned decision" is National Assembly's decision of 28 November 2023 to adopt the report of and accept the recommendations and sanction of the Joint Committee on Ethics and Members' Interests that the applicant be suspended from her seat in all parliamentary debates and sittings and from committee meeting and committee related functions and operations for one term of Parliament.

16. The relief sought by the applicant in Part A of her notice of motion seeks to prevent the execution of that sanction, despite the sanction being concerned with the first term of Parliament because the applicant may not be a member of Parliament after the first term.

17. The applicant seeks far-reaching relief, in a 269-page application, wanting this court to step into the realm of Parliament itself and to suspend the decision of the committee. And the applicant seeks this relief without giving the respondents a full and proper opportunity to respond to her application.

18. The degree of urgency sought by the applicant is entirely of her own making. The respondents are substantially prejudiced by the urgency utilised in this matter, and the dilatory approach which the applicant has adopted should result, it is respectfully submitted, in the matter being struck from the roll.

19. The complaint towards the applicant by the sixth, seventh and eighth respondents was submitted in September 2022. The applicant lodged representations on sanctions in May of 2023 and on 28 September 2023, and the applicant appeared before the Committee to make representations regarding the sanctions. Here, the applicant was afforded her *audi alteram* rights.

20. On 26 October 2023, the Attorneys of the sixth, seventh and eighth Respondent received correspondence from the third respondent noting the various recommendations to the House for the alleged breaches of the Code of Conduct by the Applicant. The correspondence has been annexed hereto as **UB1**. Notably the report by the Committee, which the applicant attached to her application as "DP4", recorded the proposed sanction. The applicant made no attempt to prevent the House from considering the report.

21. On 28 November 2023, the recommendations of the Committee was tabled before the House and the House accepted the recommendations made by the Committee and made the sanctions which were effective from 06 December 2023. From at least 6 December 2023, if not 26 October 2023, the applicant knew the sanction had been imposed. In the case of 26 October 2023, she knew the imposition of sanction was imminent.

22. This application was then only launched on 10 January 2024. The only explanation provided for the delay of over a month in launching this application is:[1]

> "I was conscious and my legal representatives were advised by the Registrar of this Honourable Court that if the application was launched during the December break (i.e 17 December 2023 when it was ready), the application would have had to be heard within a two weeks, thus first week of January 2024".

23. The applicant states that "I have not delayed the institution of this application."[2] This is internally inconsistent. It seems that the applicant, on her own version, which includes hearsay, had this application ready on 17 December 2023, but only disclosed it to the respondents in mid-January 2024. That is unacceptable. It is not the Registrar who gives legal advice, it is her attorneys. If her attorneys (wrongly) advised her to delay in launching the application, then regrettably, that was a fatal mistake to her application.

24. The Court recess has never been nor ever will be a hinderance to the administration of justice should the applicant have believed that this matter was truly urgent. The applicant was not prevented from launching these proceedings during the court recess. I pause to mention that the applicant knew of the outcome of the decision of the House on Tuesday, 28 November

---

[1] Founding Affidavit, par 187.
[2] Founding Affidavit, par 188.

2023, in excess of 10 days prior to court recess to prepare and issue her application.

25. The application papers in this matter were served on the Sixth Respondent on Wednesday, 10 January 2024. We were required to file our Notice of intention to Oppose by no later than 17:00 on that same day, Wednesday, 10 January 2024. Additionally, we were further required to file our answering papers by no later than 17h00 on Tuesday 16 January 2024, with the matter being enrolled for hearing on Thursday 26 January 2024.

26. The Sixth, Seventh and Eighth respondents have consequently been afforded four court days to consider the voluminous affidavit and annexures of the application and to brief a legal team, on an urgent basis, who similarly have to consider the voluminous affidavit under these unreasonably truncated time periods. The prejudice is enormous. As a result it is has not been possible for me to fully address the wide-ranging issues in the founding affidavit. Below, however, I do highlight a few of the fatal flaws in the application.

THE APPLICANT DOES NOT ASSERT ANY RIGHT WHICH REQUIRES PROTECTION BY WAY OF AN INTERDICT

27. The applicant seeks to interdict the sanction imposed by the Committee as supported by the House. On this basis the applicant claims she will suffer the prejudice caused by the sanction, namely that she would be unable to participate in a term of the parliamentary programme.

28. Under the common law test, the *prima facie* right a claimant must establish is not merely the right to approach a court in order to review an administrative decision. It is a right to which, if not protected by an interdict, irreparable harm would ensue.

29. An interdict is meant to prevent future conduct and not decisions already made – such as the sanction of the Committee (as supported by the House). Quite apart from the right to review and to set aside impugned decisions, the applicant should have demonstrated a *prima facie* right that is threatened by an impending or imminent irreparable harm. The applicant has not done so. The right to review the impugned decisions, therefore, does not require any preservation *pendente lite*. That should be the end of the matter.

30. For this reason, the relief sought by the applicant, properly construed, is final in nature and therefore the Plascon Evans procedural rule should govern any dispute of fact in the determination of this dispute under Part A. But in any event, even on the applicant's facts, the application is bad in law.

THE APPLICATION (WHETHER PART A OR PART B) IS BAD IN LAW

31. #UniteBehind was formed as a coalition of people's movements, legal, policy and support organisations advocating for justice and equality. It has since been incorporated as a not-for-profit company dedicated to the building of a just and equal society.

32. #UniteBehind is committed to ending state capture, particularly the corruption, maladministration, mismanagement, and malfeasance at the Passenger Rail Agency of South Africa ("**PRASA**") and has continued as a conductor for #FixOurTrains movement.

33. In this regard, one of #UniteBehind's central demands is the building of a safe, reliable, affordable, efficient and quality public transport system, in particular a commuter rail service. This is sought to be achieved by taking positive steps to end the following in respect of PRASA: the endemic corruption; its capture; political interference by the Executive; and incompetence and maladministration.

34. It is of notoriety that a large number of politicians and other high-profile individuals have been implicated in unlawful activities including corruption and mismanagement in the affairs of PRASA. State capture at PRASA, its mismanagement, maladministration and collapse must be attributed to these individuals, some of whom are Members of Parliament.

35. As part of #UniteBehind's campaign to hold those accountable for state capture, in September 2022, the seventh and eighth respondent lodged complaints against six Members of Parliament with Parliament's Joint Committee on Ethics and Members' Interests, in terms of the Code of Ethical Conduct and Disclosure of Members' Interests for Assembly and Permanent Council Members. (the code of conduct). This was done in the public's interest in accordance with the state capture commission report.

36. To date, the sixth, seventh and eighth respondent have submitted six complaints to the Committee, of which one of the complaints pertained to the applicant in the above matter and is referenced by the applicant in her annexure **DP1.**

37. The sanction imposed by the Committee was an act of accountability – the applicant failed in her duties as a member of Parliament. That failure has had consequences not just of maladministration, but of corruption as well. The importance of accountability must feature throughout consideration of this application.

38. In holding the applicant accountable, the effect of the sanction is that the applicant would be unable to participate in the parliamentary programme for a term. The first term of Parliament will run from 30 January to 28 March 2024. This would entail 9 weeks of the applicant being unable to participate.

39. The timing of this application is brought conveniently in line with the pending national election. As is common knowledge, the current term of the national assembly will expire on 21 May 2024. Accordingly, the Constitution dictates that the election must occur within 90 days thereafter, this coincides with 19 August 2024.

40. The only time the applicant would be unable to participate in the parliamentary programme would be for the first 9 weeks of the programme, whilst still being able to participate in the programme until the dissolution of the current

national assembly by no later than 19 August 2024. The suspension is less than a third of the possible parliamentary programme.

41. The applicant fails to properly show what true prejudice she would suffer and that such prejudice is without just cause.

42. The Code of Conduct is clear. Where a finding of a committee is recommended and accepted by the House, that the Speaker or Chairperson act with haste to enforce same.

43. The Code of Conduct must apply to the applicant regardless of whatever additional position she held on the very account that her status as member of parliament during the complained time did not change. The applicant must be wary of choosing when the rules and Code of Conduct applies to her and when it does not, lest she forget she remains a public servant under oath to the Constitution and the people of South Africa.

44. The applicant irrevocably reconciled herself to the fact that the Code of Conduct and the high standards imposed on Members of Parliament would apply to her when taking same oath. Disappointingly, she failed to uphold that oath.

45. As for the prejudice to the applicant's good name, as she claims, the findings against her are echoes of the same findings by the High Courts, the Supreme Court of Appeal, the State Capture Commission and the Auditor-General.

46. Insofar as a finding such as the that of the Committee does have an impact on the applicant's name, that impact already occurred in the previous findings by other entities – the finding, on facts, is nothing new.

47. As an example, Zondo CJ found as follows, amongst other findings against the applicant, in the 5th volume of the State Capture Report, at para 2175:[3]

> "Fifth, Minister Dipuo Peters must be credited with appointing the Molefe Board in 2014. It appears that initially at least she was supportive of the Molefe Board's attempt to clean up PRASA However, it seems that her support for this effort waned. The reason she proffered for withdrawing her support was that the Board was not focusing on ensuring that PRASA was run properly. However, what emerges from the evidence is that she wished the investigations into PRASA's ills to at least be curtailed. Thereafter, when it became public knowledge that Mr Mashaba had said that, after his firm had been awarded the Swifambo tender, he had paid money to persons who would pay it to the ANC, one would have expected that as the Minister to whom PRASA was accountable, she would have insisted that that embarrassing allegation was expeditiously pursued: either to clear the name of the ANC or bring the wrongdoers to book. She did neither. She instead stood by. Moreover, she ought to have been aware of the unacceptable treatment meted out to the PRASA Board by the Portfolio Committee of Transport. By her inaction, it would appear that she made common cause with that Committee's approach. She must accordingly share some of the blame for the fact that the wrongdoers in the Swifambo matter have still not been brought to book."

48. As for the Minister's allegation in her founding papers that "Mabuse J did not find that my decision to dissolve the board was unreasonable and unlawful,

---

[3] See also paras: 2090; 1793; 1800; 2031; 2044; 2176.

but only that it was irrational, an entirely and legally distinct test and conclusion."[4] This allegation is dishonest. In actual fact, Mabuse J found that the Minister had acted so unreasonably that it rendered the decision irrational and unlawful. It was held as follows:[5]

> "The Minister denied the concerned directors a fair hearing. By thus denying them a fair hearing and deciding to remove them from their positions as directors without first having given them any hearing, the Minister exercised her powers arbitrarily or in a greatly unreasonable manner. A denial of a fair hearing was clearly designed to cause these concerned directors substantial prejudice."

49. And further:[6]

> "The Minister's decision to remove the concerned directors was so unreasonable and disproportionate as to be arbitrary and irrational. . . . The decision, however, is rendered wholly disproportionate by the fact that the Minister appears to have given no consideration to the serious and prejudicial impact of the wholesale removal of the Board on PRASA's interest."

50. As Minister of Transport, Ms Peters was the Executive Authority responsible for PRASA's duties in terms of the Public Finance Management Act 1 of 1999. The 2013-2014 Auditor-General's Report set out the following breaches by PRASA, considered as crimes in the PFMA. In addressing among other the

---

[4] FA, par 112.
[5] *Molefe and Others v Minister of Transport and Others* (17748/17) [2017] ZAGPPHC 120 (10 April 2017), par 42
[6] *Molefe and Others v Minister of Transport and Others* (17748/17) [2017] ZAGPPHC 120 (10 April 2017), par 56.

Swifambo locomotives contract, the Auditor-General's report illustrates Minister Peters egregious failure to fulfil her fiduciary duties as the Executive Authority for PRASA. I cite the report in some detail because oversight from the Minister and Parliament could have recovered billions of rands and forestalled the costs of the court cases, the costs related to investigations and the Zondo Commission. At paragraphs 18-22 (page 56) the AG's Report reads as follows

> The financial statements submitted for auditing were not prepared, in all material respects, in accordance with the requirements of section 55(1)(b) of the PFMA. Material misstatements identified by the auditors were corrected, which resulted in the financial statements receiving an unqualified opinion.
>
> A contract amounting to R3,5 billion for the purchase of locomotives was awarded to a bidder. The evaluation criteria used was not fully consistent with the criteria stipulated in the request for proposal. This contravenes the PRASA supply chain management (SCM) policy and section 51(1)(a)(iii) of the PFMA.
>
> The performance bond of R307 million (10%) of the contract amount, excluding the value-added tax (VAT), was issued in favour of PRASA four months after the contract for the purchase of locomotives had been signed. This is after PRASA had paid a deposit of R460 million (15%) of the contract amount, excluding VAT, to the bidder. This is contrary to the requirements of the PRASA SCM policy which states that "performance security must be provided prior to concluding the contract with the Agency".
>
> The accounting authority did not take effective steps to prevent fruitless and wasteful expenditure, as required by section 51(1)(b)(ii) of the PFMA. Fruitless and wasteful expenditure to the value of R19 million was incurred due to interest and penalties on late payments of creditors' accounts. internal control 22. I considered internal control relevant to my audit of the financial statements, annual performance report and compliance with legislation. The matters reported below are limited to the significant internal control deficiencies that resulted in the findings on non-compliance with legislation included in this report.

> The winning bidder for the purchase of locomotives was not disqualified for failing to submit the subcontractor's letter of good standing with relevant taxation authority in its country of origin and submitting tender documents not signed by both the winning bidder and the subcontractor, as required by the request for proposal. Furthermore, the technical evaluation of the winning bidder was based on the technical capabilities of the subcontractor; however, sufficient appropriate evidence which substantiates the existence of a subcontracting relationship between the bidder and the subcontractor at the time of the bid evaluation could not be provided.

51. I turn now to my response to the individual allegations in the founding papers.

***AD SERIATIM* RESPONSE**

52. I have outlined above that the application is not urgent and lacks merit. In order to avoid prolixity I will refrain from repeating these issues in response to the application paragraph by paragraph. I will accordingly only respond to particular allegations. Where I do not respond to an allegation, it ought to be taken as denied save where the context of this affidavit suggests otherwise.

Ad para 1 to 2

53. Save for denying that the allegations in the founding affidavit are true and correct in all respects, I take note of the contents of these paragraphs.

Ad para 8 and 9

54. The contents of this paragraph is denied. The complaint raised was not a regurgitation of the recommendations and findings of the State Capture

Report. Furthermore, same does not affect the *dies,* nor ones capability to respond to a compliant.

55. The applicant agrees to be bound by the ethics Code of Conduct upon taking oath as a Member of Parliament. Accordingly, the code applies to every member of Parliament and ensures that Members of Parliament are held to a high standard as public figures. It is therefore not for the applicant to pick and choose when the code may apply or not. Simply put, the member must abide by the Code of Conduct and the oath they take in all aspects of their professional and personal life.

Ad para 25 and 26

56. The contents of this paragraph is denied. The applicant's use of colourful adjectives to disguise the veracity of the outcome of the investigation is respectfully misplaced. The applicant further fails to establish anywhere in her affidavit where the decision of the Committee and House were *"marred by irrationality, illegality, unconstitutionality, unreasonableness, procedural unfairness; errors, the consideration of irrelevant factors and the rejection of relevant considerations, and the decisions are arbitrary and capricious".*

Ad para 28

57. The contents of this paragraph are denied. The prejudice suffered by Parliament is one that defeats the purpose of the Committee and accordingly disables accountability to the South African people.

Ad para 98 – 101

58. The contents of these paragraphs are denied. The applicant cannot cherry-pick when they are considered a member of Parliament and when not. Similarly, they cannot choose when the rules and Code of Conduct apply and when they do not.

Ad para 133 – 141

The contents of these paragraphs are noted. As far as the sixth to eighth respondent is concerned, the Committee followed the Code of Conduct and applied it to the information before it, in respect of this complaint.

Ad para 142 to 156

59. The contents of these paragraphs are denied. Procedurally, the Committee followed the Code of Conduct as required. Furthermore, the applicant had numerous occasions to exercise her *audi alteram partem rights.* She was afforded a hearing and, where she made representations, they were duly considered.

60. It is notable that for such serious allegations the sanction against the applicant is relatively light.

Ad para 159 to 161

61. The contents of this paragraph is denied. The impugned decision imposes a sanction that does not limit one's recourse to procedurally fair administrative action nor that of just administrative action.

Ad para 167 to 172

62. The contents of this paragraph is denied. The sanction will not have a negative impact on "*the representation of the electorate that elected me as MP*" (i.e., her alleged constituency). This bald allegation is unsubstantiated. There is no evidence before this Court as to (a) the constituency (b) the work relevant to the constituency (c) the full duration of the constituency work (d) why the sanction will disrupt this work (as opposed to parliamentary sessions (when work is done in plenary groups and committees). Further, the applicant was elected through her membership of the African National Congress. No voter elected her directly. The ANC is the ruling party with a significant majority in Parliament and not one of its MPs voted against the decision to suspend Deputy-Minister Peters from participating in the affairs of Parliament for a single term.

63. In any event, the fairly light sanction of Parliament without even referring the matter to the President to take steps in terms of the Executive Ethics Code or the criminal justice authorities shows that greater harm will be suffered by Parliament and the people. People who voted for the ANC will suffer prejudice if the Applicant succeeds in this urgent application.

64. Moreover, nothing stops the Applicant from fulfilling her role as a deputy-minister and she will continue to receive her full salary despite facilitating state capture, corruption, mismanagement and maladministration at PRASA.

Ad para 173 to 175

65. The contents of this paragraph is denied. The balance of convenience does not favour the granting of the interdict, pending the determination of the review. This is because it is better that, pending the determination of the review, the sanction by the house will still stand and no irreparable harm will be suffered. If the application is genuinely concerned with the "good name" of the applicant, she can pursue her review.

CONCLUSION

66. I submit that for the reasons set out above, the application falls to be dismissed with costs.

I hereby certify that the Deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn before me at Cape Town on the 18th day of January 2024, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

Advocate Philip Mybergh
Practising member of the
Cape Bar, between Chambers,
16 Keerom Street, Cape Town

UB1.

PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

PO Box 15 Cape Town 8000 Republic of South Africa
Tel: 27 (21) 403 2911
www.parliament.gov.za

26 October 2023

Mr. Rui Lopes
Managing Director
Lopes Attorneys Inc.
79 Oxford Road
Saxonworld
JOHANNESBURG
2132

Per email: rui.lopes@lopesattorneys.com

Dear Mr Lopes

RE: #UNITE BEHIND'S COMPLAINTS TO THE JOINT COMMITTEE ON ETHICS AND MEMBERS' INTERESTS- ALLEGED CONTRAVENTION OF THE CODE OF ETHICAL CONDUCT AND DISCLOSURE OF MEMBERS' INTERESTS

1. HON DIPUO PETERS, MP

The above-mentioned matter refers.

I write on behalf of the Joint Committee on Ethics and Members' Interests ("the Committee") who at its meeting of 20 October 2023 finalised its deliberations in the complaint by your clients against Hon Dipuo Peters, MP ("the Member").

The Committee considered the following allegations. That the Member-

1. failed to appoint a Group CEO for the Passenger Rail Agency of South Africa (PRASA) which resulted in R1 767 000, 00 fruitless and wasteful expenditure for PRASA;
2. irrationally dismissed the PRASA Board under Chairperson Molefe; and
3. misused the assets of PRASA in the form of bus services to the African National Congress (ANC) which was not paid for by the ANC.

In respect of the first allegation, the Committee found that the Member breached item 10.1.1.3 of the Code read with items 4.1.3 and 4.1.4 of the Code.

That the Member failed to –

4.1.3 act of all occasions in accordance with the public trust placed in her; and

4.1.4 discharge her obligations, in terms of the Constitution, to Parliament and the public at large, by placing the public interest above her own interests;

when she failed to appoint a Group CEO after the PRASA Board had commissioned a recruitment process which resulted in a financial loss of R 1 767 000. 00

In respect of the second allegation, the Committee found that the Member breached item 10.1.1.3 of the Code, read with items 4.1.3, 4.1.4 and 4.1.5 of the Code.

That the Member failed to –

4.1.3 act of all occasions in accordance with the public trust placed in her;

4.1.4 discharge her obligations, in terms of the Constitution, to Parliament and the public at large, by placing the public interest above her own interests;

4.1.5 maintain public confidence and trust in the integrity of Parliament and thereby engender the respect and confidence that society needs to have in Parliament as a representative institution;

when she dismissed the PRASA Board on the same day when Mr. Molefe wrote to the Portfolio Committee on Transport. This dismissal was ruled by the High Court in *Molefe and Others v Minister of Transport and Others (17748/17)[2017]ZAGPPHC* to be irrational, unreasonable and unlawful.

In respect of the third allegation, the Committee found that the Member breached item 10.1.1.3 of the Code, read with item 4.1.4 of the Code.

That the Member failed to –

4.1.4 discharge her obligations, in terms of the Constitution, to Parliament and the public at large, by placing the public interest above her own interests;

when she requested buses from PRASA that was used for the ANC 2015, January 8th celebrations that was not paid for by the ANC.

The Committee finalised its deliberations on the sanctions after the Member had the opportunity of addressing the Committee in person on 28 September 2023.

The Committee has made the following recommendations to the House in terms of item 10.7.8.1 of the Code.

Breach 1

That the Member be suspended from her seat in all parliamentary debates and sittings, and from committee meetings and committee related functions and operations for one term of the Parliamentary program.

Breach 2

That the Member be suspended from her seat in all parliamentary debates and sittings, and from committee meetings and committee related functions and operations for one term of the Parliamentary program.

Breach 3

That the Member be suspended from her seat in all parliamentary debates and sittings, and from committee meetings and committee related functions and operations for one term of the Parliamentary program.

That the suspension in respect of all three breaches as set out above, run concurrently during a term of the Parliamentary program as determined by the House.

The Committee Report was published in the Announcements, Tablings and Committee Reports (ATC). A coy is attached for ease of reference.

Sincerely

ADV A GORDON
ACTING REGISTRAR OF MEMBERS' INTERESTS

QUEER REVOLUTION AGENDA

17 January 2024

1. Welcome and Introductions
2. The Role and Participation of LGBTIQ+ people in Zackie2024
3. Work Report
    - People's Law - Queer Revolution
    - Introducing Zackie2024
    - Klipfontein and Khayelitsha Queer Revolution Forum
    - Cape Town Lesbians Picnic
    - TAC Taking HAART - World AIDS Day Screening
    - Pride Launch - signature collection.
4. Queer Revolution and Zackie2024: Our Work Commitment
    - Queer at Home and Queer in the World
    - Build Our Communities
    - Fix The State
    - Reclaim Parliament
5. #Zackie4Queers - Commitments to people who are:
    - Trans
    - Lesbian
    - Bisexual
    - Intersex
    - Gay
    - Queer
6. Pride Programme
    - Queer Revolution Forum to adopt commitment
    - Film Screenings
    - Panel: Equality for All - A History of Pride in Cape Town
    - Pride - Float and Equality for All March
7. AOB

Zackie2024
Methodist House
46 Church Street
Cape Town
8001

www.zackie2024.com