UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

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# INTERVIEW QUESTIONS

## 1. Human Resource Management

- Does your institution have a recruitment, selection and appointment policy? And how does it operate? What about Executive Recruitment?
- Do you have a staff appraisal system in place? Elaborate.
- Do you have a staff development training policy? Explain in full.
- Do you have performance management system in place in your institution, and if not why is it so?
- How does your employment procedures keep in line with the laws of the country?
- How do you manage to prevent nepotism and corruption in your appointment of staff?
- What is the position of your institution on affirmative action appointments, i.e. regarding women, blacks and the disabled?

## 2. Financial Management

- The first major goals of financial management is said to be to ensure the adequacy of funds and its liquidity. Within the University how is this goal achieved?
- How does your department ensure optimal use of resources within the University?

- Are there any rules and procedures for the Finance Department, and how frequent are they modified to adapt to new changes? How simple and rational are these rules?
- How adequate are your Accounting and Treasury Functions?
- Is there a Risk Management Policy, and how is it implemented?
- Do you have standard procedures/policy on assets verification, and how is it structured?
- Do you have a Fraud Prevention Policy, and how is it managed?
- Is there a Code of Ethics, and how is it structured?
- Are there measures in place to prevent corruption and bribery in the tender as well procurement systems?
- Do you apply zero-based budgeting or performance budgeting, and why?
- Is there any decentralization or delegation of financial functions, and how is this managed?
- Do you have enough competent staff in your administration to can carry out financial administrative functions adequately?
- What improvement do you feel will add value into financial administration within the University?

## 3. Leadership

- Do you believe leaders are born rather than fashioned by the environment?
- What are your views on gender and leadership? Do women make good leaders and why?

- What kind of leadership style is favoured? e.g. top-down, bottom-up or diffuse and informal.
- How far do you consult before reaching a decision?
- How does race, culture, tribalism and ethnicity affect the working of your institution and how do you deal with these issues?
- Does your institution rely on harsh punitive measures or believe in moderate alternative ways of dealing with problematic staff members.
- What are your views on contract appointments for senior staff members?

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**GREATER THUHUYANDUU**
**Transitional Local Council**

Private Bag X 5066
Thohoyandou
0950
Northern Province
TEL: (0159) 31025/6
FAX: (0159) 31772

Annexure "1"

REF : TOWN CLERK
ENQ : TOWN SECRETARY
TEL : 0159 - 31010
DATE : 16 - 04 - 1997

ADMINISTRATION HEAD
PLANNING DIVISION
ATT : MR MASIAGWALA
UNIVERSITY OF VENDA
PRIVATE BAG X5050

DEAR SIR

DEED OF GRANT / OR TITLE DEED APPLICATION FOR THE UNIVERSITY SITE BY THE UNIVERSITY : RESPONSE.

The above matter refers.

Kindly be notified that your application for the above - mentioned matter has been favourably considered. However, before processing of this application could be effected, you are kindly requested to pay the necessary site purchasing fee.

Calculated at the rate of R26,50 per $m^2$, for your site which is 2 509 819 $m^2$ the purchasing fee will be R66 510 203 - 50.

Hoping this will assist the institution in finalising the processing of the necessary documents which the University urgently need.

Yours

Greater Thohoyandou TLC
The Town Clerk / Chief Executive Officer

OFFICE OF THE DEPUTY VICE-CHANCELLOR

15 April 1998

Annexure "2"

ATTENTION: THE HONORABLE CHIEF : MR M P K TSHIVHASE

Tshivhase Territorial Council
P O Box 15
CAPE TOWN
8000

BY HAND

Sir

AUTHORITY TO REGISTER LAND: UNIVERSITY OF VENDA

I refer to our meeting at your kraal on Friday, 20 March 1998, regarding this matter.

The delay in responding to issues raised at the meeting is regretted, but as you might know, the situation at the University of Venda became very volatile after our meeting. Executive Management had to utilise the little time available to stabilise and bring the situation to normality. I am happy to announce that the situation is calm and the University is once again focussed on its important goal of disseminating knowledge.

We reported the outcome of our meeting to Executive Management and they were very excited by the prospects of resolving the thorny problem of land registration for once and for all.

Executive Management after listening to our comprehensive report on the meeting resolved as follows:-

i. That one of our largest buildings on campus should be named after Chief Kennedy Tshivhase. This will be in honour of the Chief for his vision and foresight in allowing the University to be established on his land.

ii. Our school of Nursing and Health Sciences has a lot to offer in terms of basic health care, and the community under the Territorial Council will receive regular visits from members of the school in this regard. We also have a mobile clinic with the latest state of the art technology. This clinic will be put at the disposal of your community per arrangement.

Please note our new numbers
Telephone 0159-824757-89 Fax 824742/49

UNIVERSITY OF VENDA
PRIVATE BAG X5050 • THOHOYANDOU • 0950 • SOUTH AFRICA
TELEPHONE (0159) 21071-9 / 21080 • TELEFAX (0159) 22911/22045

iii. Our school of law has a street-law project whose aim is to concientize rural and indigent people about their rights. Topics range from consumer protection laws to Individual Human Rights. Regular visits will be conducted at your area and this will greatly assist your community to understand and also be able to enforce their rights.

The school also boasts one of the most efficient Legal Aid Clinics in the region. This clinic helps indigent people who cannot afford to pay attorneys when they have a matter that has to go to court. The legal service is offered free of charge and your community stands to benefit from these services.

iv. Our school of Business, Economics and Administrative Sciences has a lot to offer your community in the sphere of Administration. It came to our attention at our meeting that you are one of the largest Territorial Councils in the region, and the school is ready to assist your Headmen and other members of the Council with administrative skills, book keeping etc.

v. Our school of Environmental Sciences has a lot to offer in terms of skills and knowledge on how to preserve our natural heritage. It was a wonderful experience to visit your kraal with all those beautiful mountains and lovely landscapes. These need to be protected and the school boasts highly qualified staff members who can assist in preserving these beautiful natural resources.

We therefore recommend that further meetings be held between members of our various departments and your representatives to concretize the above offers. It is our view that at these meetings a schedule of dates will be agreed upon when the exercise will get underway without further delays.

We would be glad to hear from you at your earliest convenience.

.....
Dr V N VERA
Deputy Vice Chancellor and Vice Principal
/ft

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# GREATER THOHOYANDOU

## Transitional Local Council
## Chief Executive Officer

Private Bag X5066
Thohoyandou
0950
Northern Province
Tel: (0159) 31018-28
Tel: (0159) 31118-28
Fax: (0159) 31136

Annexure "3"

Enq : M.H. Mathivha
Date : 12 August 1998

Prof G.M. Nkondo
Vice Chancellor and Principal
University of Venda
P/Bag X5050
Thohoyandou
0950

**RE: REGISTRATION OF LAND: UNIVERSITY OF VENDA**

I am refering to your letter dated 24 February 1998.

I apologise for any inconveniences that may have been caused by the delay in settling the issue of registering the land in question.

The council is prepared to assist you in the process of registration as soon as possible. You will be allowed to register the whole area where your property is situated up to Mvudi river on the South of the property.

You are advised to delegate people to visit our offices during office hours to facilitate the process of registration.

Your co-operation will always be appreciated.

.....
CHIEF EXECUTIVE OFFICER
GREATER THOHOYANDOU TLC

*Capital* *District*

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Annexure "4"

# TSHIVHASE TERRITORIAL COUNCIL

Inq: Ramugondo R.A
Cell : 083 746 5238

P.O.Box 1093
VHufuli
0971
04/04/2005

TSHIVHASE TERRITORIAL COUNCIL
2005 -04- 04
P.O. BOX 1093
VHUFULI 0971
TEL: (015) 5040 VHUFULI
NORTHERN PROVINCE

The Manager
Harrop Company.

Dear Sir / Madam

REQUEST TO STOP THE ERECTION OF A FENCE AT MULEDANE OPPOSITE DITIKE BY TSHIVHASE TERRITORIAL COUNCIL.

1. The above matter has reference.
2. Tshivhase Territorial Council is hereby recommending the above written request, because that area belongs to Tshivhase Territorial Council and you are operating on it without permission.
3. Kindly receive this information for your further approval.
4. For any information you are therefore requested to come to Tshivhase Territorial Council.
5. Your co-operation will be highly esteemed.

Yours truly

Chairman : 2005/04/4

Secretary : 2005/04/04

RECEIVED
OFFICE OF THE VICE-CHANCELLOR
AND PRINCIPAL
2005 -04- 05
CONFIDENTIAL

Annexure "5"

UNIVERSITY OF VENDA
For SCIENCE AND TECHNOLOGY

MEMORANDUM

TO : THE VICE CHANCELLOR AND PRINCIPAL

FROM : OFFICE OF THE LEGAL ADVISOR

DATE : 07 APRIL 2005

**RE : CLAIM TO THE LAND BY THE TSHIVHASE TERRITORIAL COUNCIL**

Further to the attached letter from the Tshivhase Territorial Council, kindly note that I wrote two (2) memorandums to your office regarding this matter. The first memorandum was on 21 April 2004 and the second memorandum was on 7 December 2004 (all copies attached herewith).

I recommended, in all the above memorandums a two pronged approach , viz:

(a) That the University of Venda should approach the Court for the latter to confirm ownership of the land on the basis of prescription. Section 33 of the Registration of Deeds Act allows any person who has had an undisturbed occupation of the land for a period of not less than thirty (30) years to approach the Court for this kind of confirmation. I discussed this approach with Mr P E Marefo, the Acting Registrar of Deeds when I met with him in Pretoria on 19 April 2004, and we were in agreement that the University stands a good chance to succeed, in view of the fact that the site was allocated to Dimani Agricultural High School for educational purposes since 1972.

(b) The second approach is for the University to proceed in terms of the Communal Land Rights Act of 2004 (Act No 11 of 2004). The Minister of Land Affairs may, in terms of this Act, appoint a Land Rights Enquirer to do an enquiry on the land and thereafter send recommendations to the Minister for his determination. I also discussed this option with the Acting Deeds Registrar Mr Marefo, and he was of the opinion that it is another good option open to the University.

It is apparent that the diplomatic route that was adopted by Management has not succeeded, and something need to be done

urgently to stop the allocation of plots that is currently taking place on "University land".

**Recommendations**

It is recommended that

(i) My office be authorized to secure an appointment with the office of the Director General, Land Affairs, with a view to proceed in terms of the Communal Land Rights Act of 2004. Here the Minister of Land Affairs will make a determination.

(ii) A high profiled delegation be sent to meet with the Tshivhase Territorial Council with a view to secure a temporary suspension of the allocations that are taking place until the matter is resolved by way of a determination by the Minister in terms of (i) above. Alternatively the University may apply for a Court interdict to stop the allocation as well as the activities that are going on, until the question of ownership is determined.

(iii) We instruct our attorneys to approach the court for the latter to confirm ownership of the land on the basis of prescription.

Finally, option (i) appears to be a moderate process to trigger as it stands between a diplomatic route and a legal route. If endeavours in terms of this option fail , then a legal route might be the only way to go.

Adv M N Lidovho
Legal Advisor to the Vice Chancellor and Principal

Annexure "6"



# EXECUTIVE MANAGEMENT REPORT ON THE CRISIS WHICH LED TO THE SUSPENSION OF THE SRC

Executive Management at its meeting of Friday, 20 February 1998, resolved to suspend the SRC indefinitely. It is important to indicate from the outset that Executive Management is a non statutory body appointed by the Vice Chancellor and Principal to assist him with advises on how to run the institution on a daily basis. The decision is ultimately made by the Principal as the Chief Executive and Accounting Officer of the University.

The SRC is a statutory structure created by section 13 of the University of Venda Act of 1996 (Act no.89 of 1996) and its functions and privileges etc. are regulated by Statute. Section 3 of the SRC Constitution, which is Council policy, provides that the powers of the SRC are subject to the University of Venda Act and Council. Executive Management was therefore right in bringing the matter to Council for a final position.

The suspension of the SRC was a sequel to events that started as early as 27 January 1998 when the SRC Executive issued a notice calling upon the student body not to pay the increased fees thereby interfering with the registration process (See Annexure marked "A"). On 17 February 1998 the SRC Executive requested a meeting with Executive Management to discus *inter alia* the question of student fees.

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YUNIBESITHI YA PRETORIA



The meeting with Executive Management was accordingly scheduled for 10h00 and later postponed to 14h00 on Wednesday, 18 February 1998, at the request of the SRC. Executive Management was surprised to learn that the SRC had also organised a student mass meeting on the same date at 13h00. The agenda of this meeting was the expulsion of the Vice Chancellor and Principal from campus (See Annexure marked "B").

At about 13h45 Executive Management was busy with an unrelated meeting at the Council Chambers when a student march led by the SRC approached the main administration building toyi toying and chanting slogans. The SRC Executive procceded to the Council Chambers to meet with Executive Management as arranged, and the rest of the student body continued singing and toyi toying at the entrance to the main administration building.

The Chairperson of Executive Management, Prof. G M Nkondo, welcomed the SRC Executive at the meeting and was about to confirm the agenda when the President of the SRC, Mr M P Mudau, interrupted the meeting demanding that the Vice Chancellor should excuse himself as he is no longer recognised by both the students and the SRC as the Vice Chancellor and Principal of the University of Venda. The Principal tried in vain to explain that there can never be Executive Management without the Vice Chancellor, and the SRC President, Mr M P Mudau, moved from his seat to barricade the door calling upon the Vice Chancellor to immediately leave the chambers. Mr Mudau subsequently called for his small bag which was at the back of the chamber were he was seated. The Principal stood up to leave followed by other members of Executive Management. The SRC President joined by other members of his Executive

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present, blocked the door to prevent other members of Executive Management to leave the room allowing only the Principal to exit the chambers. After the Principal's departure, Dr V N Vera, the Vice Principal was ordered to chair the meeting, and he declined after which he was called names and a reference was made to his academic qualifications. Other members of Executive Management requested to be excused and they were responded to with abusive language too derogatory to be mentioned here. After a while Adv. M N Lidovho who warned about the possible serious crime that the students were committing in holding staff members hostage against their will, was the second one to be released "so that he can report the charges to the police". After plus minus thirty (30) minutes other members of Executive Management were released. Executive Management later learned that students led by the SRC Executive were throwing stones and blocking the main gate to prevent both staff and other students from leaving and entering the campus. Members of the South African Police Services were called in to stabilize the campus and several members of Executive Management had to leave the campus under police escort.

On Thursday, 19 February 1998, members of the SRC Executive arrived uninvited to a meeting of Executive Management that was taking place at the Council Chambers. They again blocked the door of the Council Chambers from inside thereby forcefully preventing members of the Executive Management who were inside from exiting the chambers to perform other duties. Members of the Executive Management to wit Prof. G M Nkondo, Dr V N Vera, Dr S A Brink, Mr R N Kharidzha and Mr T J Nnzeru were once again subjected to severe abusive language and treatment. It was here also emphasised that Prof. G M Nkondo's authority as Chief Executive Officer of the University is not

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recognised. The situation calmed down after the intervention by members of the South African Police Services. Students continued to sing and throw stones at the main administration building. This led to a serious confrontation with the police.

On Friday, 20 February 1998, members of the SRC Executive Committee led a campaign to prevent staff members and other students from entering and leaving the University campus. The University main gate was blocked. Some members of the Executive Management Committee who managed to enter the campus viz. Messrs J Manenzhe, R Kharidzha and K C Nemadzivhanani were "frog-marched" out of the campus. The situation was life threatening and the members were badly shaken by the incident. It was also discouraging that the events of this day and most other events happened in the presence of the police. Save for nine students who were arrested and later released on bail, no further steps were taken by members of South African Police Services who were present. This prompted Executive Management to write a letter to the Northern Province MEC for Safety and Security, Adv S Nthai, complaining about the state of affairs (See annexure marked "C").

It was on Friday, 20 February 1998, that Executive Management after consultation with other structures on campus as well as the chairperson of Council decided to suspend the SRC and close the University (See Annexure marked "D").

On Monday, 23 February 1998, despite the fact that the University was closed, a group of unruly students led by the SRC Executive started chanting and toyi toying at the main gate as early as 6 a.m. A successful campaign was carried out to prevent staff from entering the University premises. The road leading to the University from the main road was barricaded by wood, stones and iron bars to prevent motor vehicles from proceeding to the University campus. Very few staff members managed to enter the campus as the University was under siege.

Some members of Executive Management assembled at the Vice Chancellor's residence at Sibasa to strategise on the way forward. The Vice Chancellor and the Chief of Security, Mr I T Nengwenani, kept constant contact with superitendant Ncl in Pietersburg informing him about the situation on campus and also briefing him on the failure of the local Station Commissioner as well as the Public order policing under the command of Superitendant Sinthumule to stabilise the campus. It was at about 15h00 that few members of Executive Management were escorted back on campus by members of the South African Police Services. No staff members were around at this time save for some few internal security personnel and some members of the Public Relations and Development Department who were responsible for the University of Venda Radio. The South African Police Services were conducting an aerial monitor of the campus by a helicopter. Executive Management has since preferred charges against all members of the SRC Executive in terms of the Disciplinary Code for students.

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On Tuesday, 24 February 1998, the situation started returning to normal. Most students had left the campus and only some few members of the SRC Executive were seen roaming up and down the road leading towards the University from the main road. Executive Management took this opportunity to call meetings of all major stake holders on campus to brief them of the developments on campus. This was well appreciated by *inter alia* Senate, NEHAWU and Admin Staff Association.

The University opened on Monday, 2 March 1998, on condition that only registered students and those carrying bank deposit slips indicating payment would be allowed entry into campus. All meetings on campus by students were banned and the SRC was to write a letter of apology to Executive Management for their abusive language and unruly conduct, should they wish to have their suspension reconsidered (See Annexure marked "E").

On 11 March 1998 a letter was received from the SRC President apologising to Executive Management (See Annexure "F"). Executive Management having realised that some of the so called decisions by the SRC Executive are really not SRC decisions but decisions by a single or a coterie of SRC members responded on 12 March 1998 requesting all members of the SRC Executive to counter-sign the letter in order to ensure representativity (See Annexure marked "G"). Until today no letter signed by members of the SRC Executive was ever returned to Executive Management. Some members of the SRC executive even approached members of Executive Management to get a glimpse of the "so called letter of apology".

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The situation was relatively calm after the University opened on 2 March 1998 even though the suspended SRC would still convene unauthorised meetings at the University main gate (See Annexure "H").

All hell broke loose when Executive Management resolved to allow meetings to take place on campus. The suspended SRC re-surfaced in the form of the "AZANIAN STUDENT CONVENTION". It should be noted here that all the members of the SRC Executive except one are members of AZASCO. This was a well orchestrated multifaceted approach as the suspended SRC also continued to speak on behalf of the student body in various radio broadcasts. Members of the outside community were also concerned at the way the various radio stations could allow students to use abusive language directed at Executive Management over the radio. Executive Management reacted by writing letters to these radio stations informing them that the suspended SRC no longer enjoys the authority to speak on behalf of the student body (See Annexures marked "I", "J" and "K").

University regulations require any student organisation/structure to obtain permission from the Director: Student affairs before holding any meeting (See Annexure marked "L"). AZASCO started organising and leading unauthorised meetings on campus. Classes were disrupted and there were also reports of assaults to members of other student movements. Members of the public order policing had to be called in to calm the situation.

On 27 March 1998 Executive Management resolved to warn AZASCO of this deliberate violation of rules and regulations of the University. It was indicated to them that Executive Management will be left with no option but to suspend their operations on campus should they continue with their disruptive activities (See Annexure "M"). AZASCO continued to convene unauthorised meetings and to disrupt the academic programme despite the letter of warning. There were reports of AZASCO members entering and physically removing students who were attending classes. The glass door to the main administration building was also damaged by stones thrown by AZASCO members in their confrontation with the police. Executive Management has since preferred charges against those who were identified as perpetrators in this regard. The president of the SRC, Mr M P Mudau, and other SRC members are directly implicated in this. Mr Mudau and another student were even arrested by the police and they were released on their own recognisance pending trial.

The situation continued unabated and there were reports of fire-arms being used to intimidate members of other student formations. The situation went out of hand when the house of the Director: Human Resources who is a member of Executive Management and stays close to the campus was gutted by what is alleged to be a petrol bomb.

On 2 April 1998 Executive Management decided to suspend AZASCO's operations on campus until further notice (See Annexure "N").

It is clear to Executive Management in view of the above conduct by the SRC, that the current members of the SRC are not interested in the smooth running of the Academic Programme. It is also disconcerting that some of these disruptive activities have been taking place after a letter has been delivered informing the SRC Executive of today's Council Hearing (See Annexure marked "O").

What is also worrying is an observation that not all members of the SRC Executive were registered at the close of registration and they therefore cease to be members of the SRC. This is a manifestation of lack of good faith on the part of members of the SRC. Executive Management is convinced that there are dark forces, be they political or otherwise, that are working tirelessly to destabilise the campus for their own dubious ends. The SRC of the University of Venda has fallen victim to these forces and allows itself to be used as a lap dog.

It is therefore the view of the Executive Management that the SRC should remain suspended until the situation on campus normalises, and their functions be transferred to the office of the Director: Student Affairs who will direct and supervise the functioning of all SRC sub-structures and affiliates.

.....
PROF. G M NKONDO
Vice Chancellor and Principal
/wt

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"A"

RECEIVED
1998 -01- 27
OFFICE OF THE DIRECTOR
STUDENT AFFAIRS

# UNIVERSITY OF VENDA

## NOTICE TO ALL STUDENTS

IT IS A WELL KNOWN FACT 1998 HAS DAWNED WITH A DIFFERENT UNACCEPTABLE NOTE FOR US AS THE STUDENTS OF THE UNIVERSITY OF VENDA. THE ISSUE AT THE CENTRE STAGE IS THE REPULSIVE AND UNBECOMING UNIVERSITY COUNCIL'S DECISION TO RAISE STUDENT FEES BY 13.9% FOR 1998. OUR POSITION AS THE SRC AND THE STUDENT BODY IS VERY CLEAR AND UNAPOLOGETIC = **NO TO FEE INCREMENT FOR 1998.**

IN A CONSULTATION MEETING ATTENDED BY THE SRC AND STUDENT FORMATION HELD ON THE 23 JANUARY 1998 IT WAS AGREED THAT STUDENTS SHOULD REGISTER WITH LAST YEAR'S AMOUNT AS WE CANNOT ACCOMMODATE NOR COMPROMISE THE 13,9% FEE INCREMENT AS WELL AS ITS REQUIREMENTS.

REALISTIC OF THE MANNER IN WHICH MANAGEMENT HOLDS ITSELF ON THIS ISSUE (PLAYING HIDE AND SEEK GAMES WHEN IT IS SUPPOSED TO MEET THE SRC AND TREATING THIS ISSUE CONTEMPTUOUSLY), THE SRC WOULD LIKE TO URGE STUDENTS TO EFFECT NO FINANCIAL PAYMENT PENDING THE OUTCOME OF TOMORROW (WEDNESDAY)'S MEETING 28-01-98 ON THIS CONTAGIOUS ISSUE. ALL STUDENTS NEW AND SENIOR SHOULD NOT PAY PENDING THE OUTCOME OF THE MEETING.

YOURS IN BETTER STUDENT GOVERNMENT

MUDAU M.P
SRC PRESIDENT
27/01/98

UNIVERSITY OF VENDA
1998 -01- 27
SRC PRESIDENT

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

"B"



# UNIVERSITY OF VENDA

## NOTICE TO ALL STUDENTS

## MASS PROTEST

FOLLOWING YESTERDAY'S SPECIAL MASS MEETING WHEREIN WE RESOLVED THAT VICE-CHANCELLOR AND PRINCIPAL Mr GESSLER NKONDO SHOULD PACK AND LEAVE WITH IMMEDIATE EFFECT, THAT MANAGEMENT SERIOUSLY AND SOBERLY RE-LOOK INTO THE ISSUE OF OUTSTANDING BALANCES AND TSEDU'S REGISTRATION TODAY AT 14H00 WITH THE NECESSARY URGENCY AND SENSES THAT THESE ISSUES DESERVE, THAT A MUST URGENT SPECIAL MEETING OF COUNCIL BE CALLED TO SCRAP OFF THE 13,9% FEE INCREMENT. STUDENTS ARE NOTIFIED ABOUT THE FOLLOWING AS RESOLVED:

- STUDENTS SHOULD ASSEMBLE AT FREEDOM SQUARE TODAY TIME 13H30 FOR PROTEST ACTION FOR THE REALISATION OF OUR WELL DEFINED MUST DEMANDS .

HOPING FOR YOUR MAXIMUM ATTENDANCE BEFORE THIS CRUCIAL MEETING.

YOUR'S IN ADVANCED STUDENT GOVERNANCE

MUDAU M.P.
SRC PRESIDENT

UNIVERSITY OF VENDA
1998 -02- 1 8
VICE PRESIDENT: INTERNAL

"C"

OFFICE OF THE VICE CHANCELLOR & PRINCIPAL

10 March 1998

Adv. Seth Nthai
MEC for Safety and Security
Private Bag X 9492
PIETERSBURG
Northern Province
0700

8979
**PER FAX (015) 295 ~~8779~~**

Sir

**BEHAVIOUR OF MEMBERS OF THE SOUTH AFRICAN POLICE SERVICES: RECENT UNREST ON OUR CAMPUS : 18 - 23 February 1998**

I refer to my letter dated 26 February 1998 where we thanked you for the astute response of your Department when we appealed for your intervention here during the impasse.

We however wish to note our disappointment with the behaviour of certain individual police officers, including the Station Commissioner Supt. Sinthumule. A situation arose here where staff members were prevented from entering the University premises by students and members of the Executive Management were held hostage at the Council Chambers by some members of the SRC. All these happened in the presence of the police and save for the nine students arrested at the main gate, police force members failed to intervene to diffuse the situation.

The above does not however detract from the good work that your department is doing, but we thought it necessary to notify your Department of the above unfortunate event.

We again wish to thank you for your tireless effort to help us build a University Society which is less fearful and less torn by criminal violence.

Yours faithfully

**PROF. G M NKONDO**
**Vice Chancellor and Principal**
/wt

PLEASE NOTE OUR NEW NUMBERS:
Telephone : (0159) 824757 - 824789
824791 - 824799
Telefax : (0159) 824742/ 824749

UNIVERSITY OF VENDA
PRIVATE BAG X5050 • THOHOYANDOU • 0950 • SOUTH AFRICA
TELEPHONE (0159) 21071 / 21089 • TELEFAX (0159) 22045 • TELEX 331694

"D"

# SPECIAL NOTICE

## TO THE

## *UNIVERSITY COMMUNITY*

After consulting with the Chairperson of Council and a thorough review of the situation on campus, the Executive Management of the University has decided to close the University until further notice.

All students are expected to vacate hostels and the campus by 16h00 today, the 20th February 1998.

Staff are expected to remain at their respective stations.

Due to the role of the SRC in disrupting the academic program and destabilizing the entire campus, making it difficult for Executive Management and staff to perform their functions, the SRC is suspended with immediate effect.

Finally, any student found on campus after 16h00 today, will be arrested and charged with trespassing.

**PROF G. M. NKONDO**
**VICE-CHANCELLOR AND PRINCIPAL**
/mcr
20 February 1998

"E"

OFFICE OF THE VICE CHANCELLOR & PRINCIPAL

19 February 1998

Mr M Mudau
President of the S R C
University of Venda
THOHOYANDOU

Dear Mr Mudau

REQUEST TO MEET WITH EXECUTIVE MANAGEMENT

With respect to your request to have a meeting with Executive Management, I wish to inform you that this body is prepared to hold such a meeting only on the following conditions:

(a) that a written apology, be submitted concerning your unacceptable behaviour in the Council Chamber on 18 February 1998;

(b) that you agree to cooperate with Executive Management **as it is presently constituted**;

(c) that you forthwith retract your notice of 16 February 1998 to students not to register for 1998;

(d) that you refrain at all times from using abusive language in your dealings with us.

We expect your reply by the end of today.

Yours faithfully

PROF G M NKONDO
VICE-CHANCELLOR AND PRINCIPAL

/apn

PLEASE NOTE OUR NEW NUMBERS:
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"F"

TO: EXECUTIVE MANAGEMENT
PROF. G. M. NKONDO VICE CHANCELLOR AND PRINCIPA

FROM: STUDENT REPRESENTATIVE COUNCIL
MUDAU M. P. SRC PRESIDENT

RECEIVED
OFFICE OF THE VICE-CHANCELLOR AND PRINCIPAL
[illegible]
COPY FOR YOUR ATTENTION / INFORMATIE

DATE: 11-03-1998

RE: SRC - MANAGEMENT RELATIONSHIP, LETTER OF APOLOGY

WE ACKNOWLEDGE RECEIPT OF YOUR LETTER DATED 09-03-1998 WITH PLEASURE IN WHICH YOU RESPOND TO OUR LETTERS DATED 03 AND 04 MAR 1998. IT IS WORTH NOTING TO REALISE THE GOOD SPIRIT THAT EXECUTIVE MANAGEMENT DEMONSTRATES TO US, SOMETHING WHICH SHOULD BE PROMOTED FOR COLLECTIVE LEADERSHIP.

AS ALREADY POINTED OUT IN OUR PREVIOUS LETTER WHAT IS AT STAKE IS THE ADVANCEMENT OF INSTITUTIONAL INTERESTS - SOMETHING WHICH THE TWO OF US SHOULD WORK FOR AMICABLY AND COOPERATIVE YOUR RESPONSE TO OUR LETTERS FULLY AGREES TO THIS AND IT SHOWS THAT BESIDES BEING LEADERS OF THIS UNIVERSITY, YOU ARE ALSO PARENTS WHO ARE CONSCIOUS AND CARING ENOUGH

THE SRC IS PREPARED TO WORK WITH YOU IN GOOD FAITH AND THUS DOES NOT FIND IT STRANGE TO MEET CONDITIONS AS STATED IN

UNIVERSITEIT VAN PRETORIA
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YOUR LETTED DATED 19-02-1998.

(A) THE SRC HAS ALREADY RETRACTED FROM THE NOTICE OF 16 FEBRUARY WHEREIN WE URGED STUDEN NOT TO EFFECT FINANCIAL PAYMENT - AND THUS INFRINGING THE PROCESS OF REGISTRATION. THIS NOTICE OF WITHDRAWAL WAS ISSUED OUT LAST WEEK THURSDAY 05-03-1998 AND WE ENCOURAGED OUR STUDENTS TO REGISTER AS MANY AS THEY CAN. (COPY STILL AVAILABLE ON REQUEST).

(B) THE SRC FULLY AGREES TO COOPERATE WIT EXECUTIVE MANAGEMENT AS IT IS PRESENTLY CONSTITUTED LED BY YOU MR ~~[illegible]~~ VICE CHANCELL AND PRINCIPAL PROF. G.M. NKONDO.

(C) THE SRC AGREES THAT IN OUR ATTEMPTS TO HAVE PROBLEMS SOLVED ON THE 18 AND 19 FEBRUARY 1998 TEMPERS MIGHT HAVE BEEN RAISED TO LIMITS BEYOND SATISFACTION. EXECUTIVE MANAGEMENT MEMBERS ARE OUR PARENTS AND OLD ENOUGH. WE REGRET FOR AND APOLOGIZE FOR THE UNACCEPTABLE BEHAVIOUR AND CONDUCT DISPLAYED IN THE COUNCIL CHAMBER ON THOSE DATES. B THIS WE BOW DOWN TO ACCEPTABLE WAYS AND MEANS OF SOLVING PROBLEMS.

(D) THE SRC REFRAIN AT ALL TIMES FROM USI ABUSIVE LANGUAGE IN OUR DEALINGS WITH EXECUTIVE MANAGEMENT AND OTHER UNIVERSITY STRUCTURES.

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VICE CHANCELLOR AND PRINCIPAL AND EXECUTIVE MANAGEMENT ALL THESE WE DO BECAUSE WE ~~BE~~ ARE MORE THAN PREPARED TO SIT DOWN WITH YOU AND NEGOTIATE IN GOOD FAITH FOR A COMMON GROUND SITUATION- TO CREATE AN ENVIRONMENT FOR EFFECTIVE LEARNING. THIS CALLS FOR A MATURED AND RESPONSIBLE LEADERSHIP - SOMETHING WHICH WE ARE COMMITTED TO.

THE SRC HOPES THAT THIS HUMBLE PLEA WILL RECEIVE MANAGEMENT'S NOBLE ATTENTION.

YOUR'S IN THE INTEREST OF A PROGRESSIVE UNIVERSITY OF VENDA

MUDAU M. P. SRC PRESIDENT

"G"

OFFICE OF THE VICE CHANCELLOR & PRINCIPAL

12 March 1998

Mr M P Mudau
SRC President
University of Venda

BY HAND

Sir

SRC - MANAGEMENT RELATIONSHIP : LETTER OF APOLOGY

I acknowledge receipt of your letter dated 11 March 1998, regarding the above.

Kindly note that Executive Management will consider your letter only after it has been signed by all members of the SRC Executive Committee.

Yours faithfully

PROF. G M NKONDO
Vice Chancellor and Principal
/wt

Received original copy hereof on this 17 day of March 1998.

.....

PLEASE NOTE OUR NEW NUMBERS:
Telephone : (0159) 824757 - 824789
824791 - 824799
Telefax : (0159) 824742/ 824749

UNIVERSITY OF VENDA
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"H"

# NOTICE TO ALL STUDENTS

## AN ADDRESS BY THE SRC

**THE SRC INVITES ALL STUDENTS TO THE MEETING**

**THAT WILL FOCUS ON THE FOLLOWING ISSUES:**

1. **AFFIDAVITS**
2. **SRC SUSPENSION**
3. **PROVISIONAL REGISTRATION**
4. **CDE BOIKI TSEDU**

**THE MEETING TAKES PLACE AT THE UNIVERSITY MAIN GATE**

**TIME: 11H00**

**DATE: 11 MARCH 1998**

**YOURS FOR BETTER STUDENT GOVERNANCE**

**SRC EXECUTIVE**

"I"

OFFICE OF THE VICE CHANCELLOR & PRINCIPAL

10 March 1998

The Station Manager
SABC News
Private Bag XI
AUCKLAND PARK
2006

**PER FAX (011) 714 4453**

Sir / Madam

**SUSPENSION OF THE SRC OF THE UNIVERSITY OF VENDA**

Further to the above matter kindly be informed that the Students Representative Council of the University of Venda has been suspended until further notice.

The effect of the suspension is that they no longer enjoy the authority to speak on behalf of the student body of the University of Venda.

Yours faithfully

**PROF. G M NKONDO**
**Vice chancellor and Principal**
/wt

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Telephone : (0159) 824757 - 824789
824791 - 824799
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UNIVERSITY OF VENDA
PRIVATE BAG X5050 • THOHOYANDOU • 0950 • SOUTH AFRICA
TELEPHONE (0159) 21071 / 21099 • TELEFAX (0159) 22046 • TELEX 331694

"J"

OFFICE OF THE VICE CHANCELLOR & PRINCIPAL

10 March 1998

The Station Manager
Radio Thohoyandou
NORTHERN PROVINCE

22998
PER FAX (0159) 825109

Sir / Madam

**SUSPENSION OF THE SRC OF THE UNIVERSITY OF VENDA**

Further to the above matter kindly be informed that the Students Representative Council of the University of Venda has been suspended until further notice.

The effect of the suspension is that they no longer enjoy the authority to speak on behalf of the student body of the University of Venda.

Yours faithfully

**PROF. G M NKONDO**
**Vice chancellor and Principal**
/wt

PLEASE NOTE OUR NEW NUMBERS:
Telephone : (0159) 824757 - 824789
824791 - 824799
Telefax : (0159) 824742/ 824749

UNIVERSITY OF VENDA
PRIVATE BAG X5050 • THOHOYANDOU • 0950 • SOUTH AFRICA
TELEPHONE (0159) 21071 / 21089 • TELEFAX (0159) 22046 • TELEX 331644

"K"

OFFICE OF THE VICE CHANCELLOR & PRINCIPAL

10 March 1998

The Station Manager
Radio Phalaphala
NORTHERN PROVINCE

**PER FAX (015) 290 0173**

Sir / Madam

**SUSPENSION OF THE SRC OF THE UNIVERSITY OF VENDA**

Further to the above matter kindly be informed that the Students Representative Council of the University of Venda has been suspended until further notice.

The effect of the suspension is that they no longer enjoy the authority to speak on behalf of the student body of the University of Venda.

Yours faithfully

**PROF. G M NKONDO**
**Vice chancellor and Principal**
/wt

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UNIVERSITY OF VENDA
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"L"

# Important Circular

## LINES OF COMMUNICATION AND REGISTRATION

This circular is intended to address the issue of proper lines of communication with regard to student meeting and petitions.

Students are reminded that in accordance with the SRC constitution they should observe the following:-

- Structures who need to hold a mass meeting should go through the office of the Director of Student Affairs and SRC.
- Students structures should communicate with management through the office of the Director of Student Affairs and the SRC.
- Students who need financial assistance should approach the Office of the Director of Financial Aid.
- Students should apply for accommodation in hostels after registration.
- Students are urged to register now. **It is important to remind students that anyone interfering with the right of students to register will be dealt with accordingly.**

**V N Vera (PhD)**
**Deputy Vice-Chancellor**
5 February 1998
/mcr

"M"

OFFICE OF THE DEPUTY VICE-CHANCELLOR

27 March 1998

The Secretary: AZASCO Executive Committee
University of Venda
NORTHERN PROVINCE
0950

BY HAND

Sir/Madam

UNAUTHORISED MEETINGS ON CAMPUS

It has come to the attention of Executive Management that AZASCO has been convening meetings on campus without the necessary permission having been had and obtained from the office of the Director: Student Affairs.

This conduct by yourselves is a serious violation of the rules and regulations of the University.

Executive Management at its meeting of today resolved to sternly warn individual organisers of these meetings of investigations that the University is conducting which investigations might lead to appropriate disciplinary steps being taken against them.

AZASCO is also warned that if it continues to call further unauthorised meetings, Executive Management will be left with no option but to suspend your formation/ operations on campus with immediate effect.

Yours faithfully

DR V N VERA
Deputy Vice Chancellor and Vice Principal
/wf

Received original copy hereof on this

27th day of March 1998.

.....

for AZASCO

"H"

OFFICE OF THE DEPUTY VICE-CHANCELLOR

2 April 1998

The Secretary
AZASCO
UNIVERSITY OF VENDA

BY HAND

Sir / Madam

SUSPENSION OF AZASCO ON CAMPUS

It has come to the notice of Executive Management that AZASCO continues to convene unauthorised meetings and to disrupt the academic programme, despite our letter of warning dated 27 March 1998.

Executive Management at its meeting held on 2 April 1998, resolved to suspend AZASCO's operations on campus with immediate effect. AZASCO is as a result no longer a recognised formation on campus and therefore forfeits all the privileges and benefits accorded to other structures.

Yours faithfully

DR V N VERA
Deputy Vice Chancellor and Vice Principal
/wt

Received original copy hereof on
this 2nd day of April 1998.

.....
for AZASCO

"O"

OFFICE OF THE DEPUTY VICE-CHANCELLOR

27 March 1998

The Secretary: The Suspended SRC
University of Venda
NORTHERN PROVINCE
0950

BY HAND

Sir/Madam

COUNCIL HEARING TO DETERMINE WHETHER OR NOT THE SRC SHOULD REMAIN SUSPENDED

The Executive Committee of Council decided on Wednesday, 25 March 1998, that a Council Hearing should be held to determine the above.

The Executive Committee of the suspended SRC is therefore invited to present their arguments before Council on Wednesday, 8 April 1998, at 9h00 in the Council Chambers. Other stake holders within the University have also been invited to submit their views on the matter.

I also wish to confirm the decision by the Executive Committee of Council that the SRC shall remain suspended until a decision is taken by Council on 8 April 1998.

Yours faithfully

Dr V N VERA
Deputy Vice Chancellor and Vice Principal
/wt

Received original copy hereof on this 27th day of March 1998.

.....
for the Suspended SRC of Univen

UNIVERSITY OF VENDA
PRIVATE BAG X5050 • THOHOYANDOU • NORTHERN PROVINCE • SOUTH AFRICA
TELEPHONE (0159) 21071-9 / 21080 • TELEFAX (0159) 22911/22045

UNIVERSITEIT VAN PRETORIA
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Annexure "7"

# University of Venda for Science and Technology

## Memo

**To:** Prof.G.M.Nkondo
- Vice Chancellor and Principal
- Chairperson of Staff Affairs

**From:** Mrs.B.K.Davhana
HOD – Centre for Quality of Life

**CC:** Mr.T.J.Manenzhe – Executive Director Human Resources and Planning
Mr.C.K.Nemadzhivhanani – Secretary to Council of the University of Venda

**Date:** February 2, 2005

**Re:** Concern about silence or absence of response on the Grievance Report dated 10th November 2004.

---

1. This matter has reference.
2. I am aware that none of the Offices in receipt of the above mentioned grievance report have not responded to the aggrieved yet.
3. It is also regrettable that the UNIVEN Grievance Procedure does not provide for situations wherein an administrative staff member reports directly to the Vice Chancellor and Principal. However the merits of the grievance are key to the operations of the Centre for Quality of Life which requires that the matter be given the necessary attention given the time lapsed since the submission of the grievance.

Sincerely,

B.K.Davhana

RECEIVED
OFFICE OF THE VICE-CHANCELLOR
AND PRINCIPAL
2005 -02- 03

Annexure "8"

DEPARTMENT OF RESOURCE MANAGEMENT & PLANNING

10 March 2005

RECEIVED
OFFICE OF THE VICE-CHANCELLOR
AND PRINCIPAL
2005 -03- 16
COPY FOR YOUR ATTENTION/INFORMATION

Mrs B.K Davhana
P O Box 490
MAKHADO
0920

Dear Mrs Davhana

**RE : GRIEVANCE - YOURSELF**

Kindly be informed that your grievance was discussed at the Staff Affairs Committee meeting held on 7 March 2005. The Staff Affairs Committee resolved that an independent person be appointed to investigate the grievance.

I will keep you informed about developments in this regard.

Regards

.....

Mr T.J Manenzhe
EXECUTIVE DIRECTOR RESOURCE MANAGEMENT AND PLANNING

C : Prof G.M Nkondo
Vice-Chancellor and Principal

Annexure "9"

OFFICE OF THE VICE-CHANCELLOR AND PRINCIPAL

7 March 2005

Mrs B K Davhana
Centre for Quality of Life
University of Venda for Science and Technology
Private Bag X5050
THOHOYANDOU
0950

Dear Mrs Davhana

RE: INSUBORDINATION : YOURSELF

I refer to my letter to you dated 14th February 2005, and hereby:

1. Suspend you from your duties with effect from today, the 7th March 2005, with full pay and benefits. Your suspension will continue until the finalisation of the disciplinary action.

2. Instruct you to hand over the keys to your office to the University official delivering this letter to you.

Kindly further take notice, that from today you have to request permission from the Vice-Chancellor and Principal to enter the university campus, until your suspension is lifted.

Yours faithfully

PROF G M NKONDO
VICE-CHANCELLOR AND PRINCIPAL

/apn

Copy hereof received by me on this the 7th day of March 2005.

.....
Mrs B K Davhana

UNIVERSITEIT VAN PRETORIA
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Annexure "10"

# UNIVERSITY OF VENDA
# for SCIENCE AND TECHNOLOGY
# MEMORANDUM

TO : CHAIRPERSON OF COUNCIL

FROM : LEGAL ADVISOR TO THE VICE CHANCELLOR AND PRINCIPAL

DATE : 11 APRIL 2004

**RE : REPORT ON LEGAL OPINIONS TO THE VICE CHANCELLOR AND PRINCIPAL**

**Background**

I met with you on Tuesday 6 April 004 in Gauteng to discuss the operations in the office of the Legal Advisor to the Vice Chancellor and Principal, and in particular your offer to provide two legal researchers to my office to help in assessing cases of misconduct and recommending to my office on the way forward. We agreed that this would be a help to my office as I do not have a legal assistant and again it will save the university hugely on costs as there won't be a need to secure second opinions from outside legal practitioners as the university occasionally does from time to time. It was also agreed that my office could courier the documents to Gauteng for assessment and opinions to save on costs.

We later discussed several cases that my office has handled in the past, and after the discussion you instructed me to write a complete report on all the cases where my office submitted legal opinions to the office of the Vice Chancellor and Principal and the latter failed to act in line with such opinions or rejected them. I hereby comply.

1. ***Dr S.P. Olivier / University of Venda (2001)***

This is a case where Dr S P Olivier was charged with misconduct and found guilty at a disciplinary hearing constituted by the Vice Chancellor and Principal in terms of the University of Venda Statute.

The Principal execised his powers in terms of provisions of section 91 (28)(g) of the University of Venda Statute and imposed a punishment of expulsion on Dr S P Olivier during 1998. The then section 91(31)(a) of the University of Venda Statute provided that even though the principal has the authority to impose a sentence of expulsion, only Council could put such a sentence into effect. The provisions of the section were highlighted to the Principal at a meeting where the then Registrar Mr Matidza was also present. The Principal assured all the parties present that Council at its meeting on 2 December 1998, gave him the authority to put into effect all sentences of expulsion, and my office was thereafter instructed to oppose any action against the decision of the Principal to expel Dr S P Olivier with immediate effect. This despite the fact that the minutes of Council meeting of 2 December 1998, indicate that an authority given to the Principal was a specific authority to put into effect the expulsion of only two other staff members and was not a general mandate to put into effect all cases.

Dr Olivier went to Court and succeeded in having the Principal decision overturned by the Thohoyandou High Court. The University was represented by the firm Cheadle Thompson and Hayson.

The University after losing the case, decided to appeal to the Supreme Court of Appeal and the same lawyers were instructed to conduct the appeal on its

behalf. The case was later moved to Lebea Attorneys in Braamfontein due to delays experienced with the original firm. Attorney Lebea and obtained sought Counsel's opinion to asses the University chances of success on appeal. The view of Counsel was that the University stands no chance of success on appeal, and this was duly communicated to the University.

The Council of the University met on 1 April 2001 where the recommendations of Council's Appeals Committee were adopted and Dr S P Olivier was dismissed as an employee of the University of Venda.

It became resolutively easy in view of Counsels opinion for the University to stop proceeding with the appeal, for it stood to lose the case and pay thousands of rands in costs. Withdrawing the appeal would mean the University was bound by the decision of the Thohoyandou High Court. The essence of the decision was that Dr Olivier was entitled to al the benefits and entitlements of a staff member from the period the Principal effectively terminated his employment until the date Council finalized his appeal. It would also mean that the University was liable to pay his legal costs.

**On 8 May 2001 Adv. M J Mushasha (who was Acting in my office whilst I was on leave) and myself wrote a joint opinion to the Vice Chancellor and Principal advising him to stop proceeding with the appeal as the University's chances of success on appeal were very slim and the institution stood to lose thousands of rands in costs.** See Annexure marked "A" p.19).

Our joint opinion of 8 May 2001 was rejected and the Principal's Secretary was instructed to hand over the matter to Adv. Duba in Johannesburg who proceeded with the matter until the Olivier Settlement of 19 January 2004, which settlement cost the University thousands of rands.

2. ***Humbulani Ratshitanga / University of venda (2002)***

Mr Ratshitanga was employed by the University and his employment was terminated after an extended probation without a disciplinary enquiry in terms of University Policy and the law.

The matter came to my attention after Mr Ratshitanga had taken the University to the CCMA for Conciliation, and thereafter arbitration. The procedure is that the CCMA will attempt to conciliate the issue and if the parties do not reach an understanding a certificate is issued and the case proceeds to arbitration.

**On 11 February 2002 I wrote an opinion to the Vice Chancellor and Principal advising that the procedure followed in terminating Mr Ratshitanga's employment was bad in law. I also recommended that we concede the University's mistake to avoid further embarassment and costs (see Annexure marked "B" p.24).** This advise was rejected and the case was handed to University Attorneys to proceed with arbitration.

At arbitration the same point that I alluded to before conciliation emerged. The matter was settled during arbitration and Mr Ratshitanga was paid an amount of R88 389.55 for unfair dismissal. University lawyers Matshego Ramakgaga were paid R40 707.45 in costs. (See Annexure marked "C" p.25).

3. ***Mr T J Khubana / University of Venda (2002)***

This is a case where Mr T J Khubana an ex-employee of the University of Venda was negligently shot on the leg by a University Security personnel whilst he was assisting the security personnel to apprehend a thug who robbed a student of a cheque for R4 000-00 and also assaulted another student. Mr Khubana claimed an amount of R1 042.20 from the University to defray his medical expenses.

**On 5 March 2002, I gave an opinion to the Vice Chancellor and Principal to the effect that the law holds the employer vicarously liable for negligent acts of its employees committed during the course of employment. I recommended that the case be submitted to Council with the necessary payment slips for consideration** (see annexure marked "D" p.26) . The last I know, my opinion was forwarded to the staff affairs committee for its attention and Mr Khubana was not paid.

Mr Khubana approached his lawyers to institute legal action against the University. The University instructed its lawyers Matshego Ramakgaga Attorneys to handle the matter on its behalf. A settlement was negotiated and Mr T J Khubana was paid an amount of R196 262-00. The University parted with R91 001.63 in legal costs. (See Annexure Marked "E" p.27).

4. ***University of Venda / Mrs F.E.M. Olivier***

This is a matter where Ms F E M Olivier whilst attending a School Board meeting on 9 April 2003 allegedly "got furious when called to order, and stormed out of the meeting in full view of other members of the Board".

**The matter was brought to my office for investigations, and I recommended that she should not be charged, especially because she submitted a letter from the doctor indicating she had a bladder infection, the reason she left the meeting to rush to the toilet.** (See Annexure Marked "F" p.28).

On 2 June 2003, the Vice Chancellor and Principal rejected my advise and instead opted for a second opinion from Mr P R Mawila who is a staff member in the School of Management Sciences and Law. (See Annexure Marked "G" p.29). My office is preparing for Mrs Olivier to appear before the Principal's disciplinary committee soon.

5. ***Amler Moosagie / University of Venda (2003)***

This is the matter where the University received a Microwave Lab Station, and failed to pay. On 25 November 2002, **I recommended to the Vice Chancellor and Principal, that the University should pay the R250 000-00 owed to Mr Moosagie as well as his legal costs.** (See Annexure Marked "H" p.30).

On 25 November 2002, the Principal instructed my office to refer the matter to University Attorneys Matshego Ramakgaga for an opinion. (See Annexure Marked "H p.30). University attorneys never forwarded an opinion on the matter.

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The above delay left Mr Moosagie's lawyers with no option but to proceed with a sale in execution of judgement. Three University vehicles were put for sale in execution on 31 January 2003.

On 27 January 2003 I wrote another opinion to the Vice Chancellor and Principal advising that we accept a belated settlement negotiated by attorneys Matshego Ramakgaga Attorneys and pay Mr Moosagie for the Lab Station as well as his legal costs. (See Annexure Marked "I" p.32). This opinion was ultimately accepted by the Principal. The University was obliged to also pay University lawyers their costs of handling the matter.

6. ***Thinandavha John Nnzeru / University of Venda (2003)***

This is the matter where the Director : Student Affairs Mr T J Nnzeru was charged for negligence or indolence in the discharge of his duties.

The matter arose when the Azanian Student Congress (AZASCO), a student political formation wrote a letter to the Vice Chancellor protesting against the purchase of suits by the University for the then Student Representative Assembly President and his Secretary. A copy of this letter was copied to the Director Student Affairs. The misconduct, according to the Vice Chancellor, is that Mr Nnzeru having been given a copy of the letter to the Principal by AZASCO, should have arranged a meeting with AZASCO to explain the reasons behind the purchase of suits by Management.

Mr Nnzeru was called to a meeting of Executive Management in the Principal's Committee Room and reprimanded. I was later called into the committee room where the principal had assembled some members of his Executive Committee where I was instructed to draft a charge sheet charging Mr Nnzeru with indolence or negligence in the execution of his duties . I asked the Principal whether "you expect an opinion from my office on the matter" to which he replied with an emphatic NO!. I went back to my office and hurriedly drafted of charge sheet which I brought to him for signing. (See Annexure marked "J" p.35).

**The case of Mr Nnzeru was neither investigated by my office nor was an opinion from my office welcome. I would have advised if given a chance that the matter does not warrant a costly disciplinary hearing as it is petty. Again, one would go on to aver that the reprimand and humiliation meted out to him infront of his colleagues is punishment enough and to proceed further would result in him being punished twice for one misconduct. This is double jeorpady and is not permissible in law.**

7. ***Senate Elections (2004)***

The term of the current Senate members expired around December 2003. This information was duly conveyed to my office by the Registrar : Committees Mr J M Fourie, and he also informed me that he has been instructed by the Secretary to Council (Deputy Registrar) to begin preparations for Senate Elections in consultation with my office. I indicated to him that if an outside company is to be hired as has always been the practice, then a tender has to be issued in terms of University policy. I also indicated to him that there is the question of the

University of Venda Act, which has been repealed which I would first like to clarify with the Vice Chancellor and Principal.

I met the Principal on 4 January 2004 to discuss the issue, and I promised to give him my written opinion on the matter the following day.

On 5 February I wrote an opinion to the Vice Chancellor and Principal advising him not to proceed with Senate Elections until the finalization of the Statute of the University. I indicated to him that the Senate of the University of Venda cannot be constituted in terms of the University of Venda (Private) Act 1996 (Act 89 of 1996) which Act was repealed by the Higher Education Amendment Act 23 of 2001. I went further to indicate that the Repealing Act gave institutions a period of two (2) years to operate on the basis of their repealed Acts before their Institutional Statutes are amended, and we unfortunately find ourselves outside this grace period. (See Annexure Marked "K" p.36).

The Vice Chancellor rejected my opinion and once again opted to follow the advise of one Mr P Mawila who is a staff member in the School of Management Sciences and Law. An outside company was hired to conduct Senate Elections and an amount of R35 000-00 was paid out to this company.

The only way to validate these elections would be for the University Statute to retrospectively accommodate the elections, but then we agreed in our discussions that retrospectivity in surbodinate legislations (Statute) has to be permitted by the Enabling Act (the Higher Education Act), which is not the case *in casu.* As it is the University might be seating on a legal time bomb, and this will be clarified under 8 below.

8. ***The University of Venda Statute***

I was on sabbatical leave in 2001 and 2002 when I learned that the private Acts of Universities, including the University of Venda, have been repealed by the Higher Education amendment Act 23 of 2001. I alerted the office of the Vice Chancellor and Principal immediately after coming back from my long leave in 2002, and also initiated a process of amending the University Statute. I had already incorporated the provisions of the repealed Act into a revised draft Statute and also called for inputs from University structures when all of a sudden the Principal told me to stop, instructing that the Legal Services Committee, chaired by one Mr Mawila a staff member in the School of Management Sciences and Law is the body that should deal with the revision of the Statute.

I was more than surprised by this sudden move by the Vice Chancellor especially because he knows I have a lot of experience in this field. Without a need to blow my own horn, I was single handedly responsible for driving the process that led to the promulgation of the repealed University of Venda Act of 1996, as well as the current University of Venda Statute of 1998. I even went to parliament with the Vice Chancellor and Principal to address parliament on the Act. On our return form parliament the Vice Chancellor even arranged a function in the principals dining room where he thanked me in public for a job well done.

On 3 March 2003 I went to the principals office with a view to persuade him to let my office drive the revision of the University Statute, as I thought it was very urgent.

On 4 March 2003, I wrote a memorandum to the Vice Chancellor and Principal confirming what I thought was an understanding between our two offices, especially with the process of revising the University Statute (See Annexure Marked "L" p.38).

The Vice Chancellor and Principal failed to respond to my memorandum of 4 March 2003, until 25 March 2003 when he responded instructing me that "the legal Services Committee has the responsibility to co-ordinate the overall process of drafting the Statute for submission to Council" (See Annexure Marked "M" p.40).

On 26 March 2003, I wrote a general memorandum to all staff members as well as individuals who were sending inputs to my office to send them to the Legal Services Committee chaired by a Mr P R Mawila (See Annexure Marked "N" p41).

It should be noted here that the Legal Services Committee is a committee of men and women, some of whom have no legal knowledge or background appointed by the Principal to advise him on matters referred to it by the Principal and also on matters they deem fit to bring to the attention of the Principal. This Committee formally meet once quarterly and the Legal Adviser to the Vice Chancellor and Principal is an ordinary member of the committee. In almost all the times the committee has met, the legal Advisor to the Vice Chancellor and Principal has been away on other University business at the instructions of the Vice Chancellor and Principal, or on leave.

One (1) year after the revision of the University Statute had been handed to the Legal Services Committee, nothing had been done. I approached the Vice Chancellor and Principal to indicate to him that the University may soon be operating in a vacuum without a founding legal instrument, should the revision of the Statute be left in the hands of the Legal Services Committee. The Principal after listening to my plea agreed and wrote a memorandum to the Legal Services Committee informing them of his change of plans. (See Annexure Marked "O" p.42). It is unfortunate that by this time, the two (2) years grace period allowed by the Higher Education Amendment Act had lapsed.

I have since taken over the process form the Legal Services, beginning with the draft document they belatedly handed over to the Vice Chancellor and Principal. I am now busy with the consultation process and I am waiting for "Senate" and Executive management to make their inputs before a draft document can be presented to Council for approval, before it is forwarded to the Department of Education for Gazzetting.

The legal implications of this laxity on the part of the University are too ghastly to contemplate. It might mean that all decisions, if any, taken by Senate after the expiry of its members terms of office in December 2003 are legally invalid. It might also mean that all decisions taken by the newly elected "Senate", if any, are also invalid since the new body is constituted in terms of an invalid (repealed) Act of Parliament. The above pose a serious crisis for the University. All the above could of course have been avoided, had the Vice Chancellor and Principal allowed my office to drive the process.

9. ***Disciplinary Hearing : Prof D. Van Der Waal and Dr Jeff Mashimbye***

These are disciplinary hearings the origin of which startled me to say the least. One day the Vice Chancellor came to my office carring two signed charge sheets and ordered me to initiate disciplinary enquiries (See annexures marked "P" p.43 and "Q" p.45). These two charge sheets were so badly drafted that in law we say they are vague and embarrassing. They furthermore had several omissions and typographical errors that I took back to the Vice Chancellor and Principal and refused to act upon them. I told him that if the two staff members are to be charged, then, we have to follow University Policy and investigate the allegations, and thereafter draft proper charge sheets. After a long stalement, the Vice Chancellor and Principal relented and allowed me to investigate the allegations. In the final analysis I had to recommend fewer charges against the staff members as a lot of the original counts lacked substance. I should admit that until today, I am in the dark regarding the identity of the person who drafted these two charge sheets for the Vice Chancellor and Principal.

10. ***Adv. Duba's Untaxed Account***

I had advised the Vice Chancellor and Principal some years back that the bills from University lawyers should be subjected to taxation by the taxing master. This is a simple process where the items in the bill are scrutinized by the taxing master and the University is saved from paying unnecessary claims by its own lawyers. This was agreed between our two offices, and all University lawyers were informed accordingly that all their accounts will only be paid after taxation. My office would ever since never recommend any account to the Vice Chancellor and principal for payment if it is not taxed.

On 28 November 2004 I was surprised to get a letter from our attorneys Matshego Ramakgaga informing me that Adv Duba has agreed with the Vice Chancellor and principal that his account should be paid immediately without taxation.

I immediately wrote a memorandum to the Vice Chancellor and Principal advising that Adv Duba's account should be taxed, just like those of other legal practitioners who do work for the University. (See Annexure Marked "R" p.47). The Vice Chancellor and Principal, for reasons that are still mysterious to me, rejected my advise and instructed finance to "urgently" effect payment on the account. An untaxed amount of R 103 312.50 was paid to Adv. Duba by the University.

11. ***Outsourcing of Security Services***

The then Vice Principal, Resources Management and Planning, Prof D R Thakhathi was assigned by Council to implement the outsourcing of internal university security services. Prof Thakhathi requested my office to facilitate the process on his behalf. The Director Resources Management and Planning was also part of the team.

A decision was also taken to hire the services of experts in this field of law, and Attorneys Manamela Damons Mbanjwa were taken on board, as consultants to implement the process for the University. The exercise continued until it reached its final stages and thousands of rands in costs were expended on the exercise. The consultants were also eager to finalise the process.

It so happened that Council decided not to renew Prof Thakhathi's contract and he left the University.

**On 11 November 2003, I wrote a memorandum to the Vice Chancellor and principal advising that the process should be finalized in view of the efforts and resources that have been put into the exercise.** (See Annexure marked "S" p.50). The Vice Chancellor responded to my memo on the same Annexure, indicating his concerns at Prof Thakhathi's behaviour of recommending some member of the security staff for promotion, when the outsourcing process was underway. The net effect of his response was that the outsourcing should be abandoned.

Realising the Vice Chancellor's lack of legal knowledge in the field, I decided to write him an opinion the essence of which was that even the best of staff members within the institution can be outsourced or retrenched for operational requirements. In other words even staff members who are fit to be recommended for promotion can be outsourced, as the reasons for outsourcing are economic and not incompetence. The remedy for incompetence or poor work performance is in law not outsourcing or retrenchment but disciplinary measures. Despite this advise, nothing has been done about the issue until today.

12. ***Application to the High Court by the Student Representative Assembly : Payment of Fees and exclusion of Student from Examinations***

This is the case where the SRA made an urgent application to the High Court praying *inter alia* that the decision by the University to require them to pay a

certain percentage of fees before they are allowed into examinations be set aside.

The Principal and his Vice Principal were not in when this application was made, and the Acting Principal Prof S Mahoko informed me that a decision has been taken by Executive Management that the students application be opposed. My opinion was not called for before this decision was taken and I was forced to comply lest I be accused of insubordination. I hurriedly assembled a team of lawyers on a week-end to oppose the students application, and we lost the case.

I telephonically briefed the Vice Chancellor and Principal of the outcome of the case, **and advised him that we should not proceed with the case any further as our prospects of success on appeal are very slim. The Vice Chancellor and Principal rejected my advise arguing that the University is bound to appeal "in principle". I then instructed our lawyers to proceed with an application for leave to appeal, and again this was declined by the Court.**

On 7 November 2003, I wrote a memorandum to the Vice Chancellor and Principal advising that we lay the matter to rest. I even went on to explain the substance of the courts decision (See Annexure marked "U" p.51). This opinion was once again sent to a Mr P R Mawila for a second opinion. I did not receive instructions to proceed further with the case.

13. ***Sentences of Disciplinary Hearing***

I had known for months that the Vice Chancellor and Principal was consulting with a Mr P R Mawila from the School of Management Sciences and Law on several legal matters affecting the University, including disciplinary enquiries.

It really bothered me when Mr Mawila began violating some basic rules of natural justice by giving sentencing opinions to the Vice Chancellor and Principal even, in cases where he was actively involved as a pro-forma prosecutor. **This, I advised the principal, constitutes a very serious irregularity that will prove costly to the University in the long run.** (See Annexure marked "V" p.53).

The problem with the procedure taken here and else where is that there is always an assumption that the Vice Chancellor and Principal takes advise from his official Legal Adviser, which is further from the truth. This, and other areas documented elsewhere in this document, helps to clarify this aspect.

***Conclusion***

I have decided to take this route of opening up to you and Council firstly because you instructed me to do so. Again I think it will go a long way in protecting my integrity as a professional, both in practice and as a Legal Adviser to the Office of the Vice Chancellor and Principal at the University of Venda.

You have indicated to me after our meeting in Gauteng that there were times that some members of Council began to doubt my competency in the job, because of what they were being told. I therefore thank you for this opportunity accorded me to come out and clarify the issues once and for all.

I also wish to draw the attention of Council to October 2000 before my contract was renewed in 2001. Two prominent Advocates who did not even know me by then were employed to do the evaluation, and the following is what they said:

Adv. V V W Duba wrote the following about me in his final assessment ***"He is therefore hereby assessed as an asset to the University of Venda on matters legal. He is a very capable lawyer whose opinions strive to achieve fairness and justice for all involved in the dispute. It is highly recommended that if he is still interested in renewing his contract he must be retained. Indeed there are lawyers who enjoy sitting down conducting legal research and give wise opinions. Advocate Lidovho seems to be such a lawyer"***.

Adv. Dabi Khumalo also wrote the following in his conclusion of my assessment : ***"My overall view is that over the five years period that Adv. Lidovho has been employed as the Legal Adviser to the Vice Chancellor and principal, he has displayed a good grasp and "all round" knowledge of the law in respect of the University's diverse legal problems and accordingly, he rendered extremely good services to the University and has more than justified his position"***

Thanks

Adv. M.N. Lidovho
Legal Advisor to the Vice Chancellor and Principal

cc: Vice Chancellor and Principal

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

ANNEXURE "A"

# UNIVERSITY OF VENDA

## MEMORANDUM

TO : The Vice Chancellor and Vice Principal

FROM : The office of the Acting Legal Adviser

DATE : 8 May 2001

RECEIVED
OFFICE OF THE VICE-CHANCELLOR
AND PRINCIPAL
2001 -05- 10
COPY FOR YOUR ATTENTION/INFORMATION

**CLAIM BY DR S P OLIVIER OF SALARY AND BENEFITS ON EXPULSION**

Dr S P Olivier was charged with misconduct and found guilty in terms of the University of Venda Statute.

The Principal, exercised his powers in terms of the provisions of section 91(28)(g) of the Statute and imposed a punishment of expulsion on Dr S P Olivier during 1998.

The then section 91(31)(a) of the University of Venda Statute provided that even though the Principal has the authority to impose a sentence of expulsion, only Council could put such a sentence into effect. This section has since been removed from the Statute, but it was still in operation during the proceedings *in casu*. The provisions of the section were highlighted to the Principal and he assured the offices of the Legal Adviser and the Registrar that Council at its meeting on 2 December 1998, gave him the authority to put into effect all sentences of expulsion.

Section 92 of the Statute allows a staff member to appeal to Council against both conviction and sentence after a disciplinary hearing conducted at the instance of the Principal. Dr Olivier appealed to Council

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA



against both conviction and sentence.

Dr Olivier went to court and succeeded in having the Principal's decision overturned by the Thohoyandou High Court. The University was represented by the firm Cheadle, Thompson and Haysom, who were recommended by the Chairperson of Council.

The University, after losing the case, decided to appeal to the Supreme Court of appeal, and lawyers Cheadle, Thompson and Haysom were instructed to conduct the appeal on its behalf.

At that stage it appeared that Cheadle Thompson and Haysom were no longer enthusiastic to proceed with the appeal. This became apparent from the unfavourable telephonic statements they were making to the office of the Legal Adviser, and also their delays in applying for appeal documents.

They also started demanding that the University pay them in advance i.e before rendering services. It should also be mentioned that the University had by then taken a decision to have all their accounts taxed before it could effect payment as their fees were in its view excessive. They were not well disposed to this decision. The above developments led to the strain of the attorney and client relationship and resulted in loss of mutual trust and it consequently became inevitable to terminate their services. The office of the Legal Adviser was accordingly, authorised by the Acting Vice Chancellor and Principal to remove the matter to another firm of lawyers.

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA



The matter was duly transferred to the firm Lebea and Associates who are based in Braamfontein, Johannesburg. The University was already using this firm for other matters that are serving before the Labour court, as they are based some few blocks from the seat of the Labour Court. The new firm immediately drew the attention of the University to the fact that they have discovered that the previous firm Cheadle, Thompson and Haysom had not applied for the transcript of the record from the Thohoyandou High Court for purposes of appeal.

Mr Lebea was therefore not in a position to prosecute the appeal without the record. Meanwhile the time of prosecuting the appeal as prescribed by the rules of the High court expired and the appeal lapsed. We instructed attorney Lebea to proceed with the application for condonation. To succeed with an application for condonation, the court looks into the merits of the case to determine whether applicant has a prospect of success, should condonation be granted.

Counsel's opinion was sought to assess the University's chances of success on appeal. The major obstacles against the success of the application for condonation of the late filing of the appeal were, according to counsel, the common law position, the non availability of the record and the lack of authority by the Principal to put into effect sentences of expulsion, in terms of the then provisions of the Statute (see attached copy of Counsel's opinion)

It should be noted that all this was happening pending the finalisation of Dr Olivier's appeal by the University Council. The delay in finalising his

appeal by the University Council was due to the efforts to reconstruct the proceedings of his disciplinary hearing as contained in the five (5) cassettes, which became inaudible and that the record could not be submitted to the next meeting of Council due to the fact that the Chairperson of the Council's Appeal Committee took ill.

Council finally met on 1 April 2001 where the recommendations of Council's Appeal Committee were adopted, and Dr S P Olivier was dismissed as an employee of the University of Venda.

It is resolutively easy in view of Counsel's opinion to recommend that the University should not proceed with the Appeal, for it stands to lose the case and pay thousands of rands in wasted costs.

Withdrawing the appeal would invariably mean the University is bound by the decision of the Thohoyandou High Court. The essence of this decision is that Dr Olivier is entitled to all the benefits and entitlements of a staff member from the period the Principal effectively terminated his employment until the date Council finalised his appeal. It would also mean that the University is liable to pay his legal costs.

Recommendations

It is recommended, in view of the above, that:-

a. The University withdraws its instructions to attorney Lebea to proceed with an application for condonation for the late filing of the appeal, as the University does not have any chances of success.

b. The University pays Dr S P Olivier his salary and benefits for the period since the Principal terminated his employment until the date he was informed of his effective dismissal by the University Council.

c. The University pays Dr S P Olivier's legal costs at Thohoyandou High court as per the court order; and

d. The University tenders wasted costs for the appeal.

.....
ADV. M J MUSHASHA
Acting Legal Adviser to the
Vice Chancellor and Principal

.....
ADV. M N Lidovho
Legal Adviser to the Vice
Chancellor and Principal
(On Leave)

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Annexure "B"

# UNIVERSITY OF VENDA FOR SCIENCE AND TECHNOLOGY

File

## MEMORANDUM

TO : Vice Chancellor and Principal
FROM : Office of the Legal Adviser
DATE : 11 February 2002

**DISMISSAL: HUMBULANI H RATSHITANGA**

The attached CCMA notice refers.

I have confirmed with the Director: Resource Management and Planning that the above staff member was employed by the University and his employment was terminated after an extended probation without a disciplinary enquiry in terms of University policy.

The law with regard to termination of employment after probation is clear: a staff member should be subjected to a fair hearing whenever his or her rights stand to be violated. This is also a constitutional requirement. Our own University policy requires us to go through a formal disciplinary enquiry before terminating a probationer's employment.

What took place in this matter puts the University in a very difficult position, as the University cannot go to the Labour Court and plead ignorance of the law.

**Recommendations**

It is recommended that:-

1. We concede the mistake and entertain the prayers of the applicant during Conciliation, to avoid further embarrassment and costs.
2. Alternatively, your office seek a second opinion on the matter before proceeding.

**Adv. M N LIDOVHO**
**Legal Adviser to the Vice Chancellor and Principal**

RECEIVED
OFFICE OF THE VICE-CHANCELLOR AND PRINCIPAL
2002 -02- 12
COPY FOR YOUR ATTENTION/INFORMATION

12/2/02

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

ANNEXURE "C"

# UNIVERSITY OF VENDA FOR SCIENCE AND TECHNOLOGY

## MEMORANDUM

TO: THE VICE-CHANCELLOR & PRINCIPAL

FROM: OFFICE OF THE LEGAL ADVISER

DATE: 25 October 2002

**BILL OF COST : ARBITRATION - HUMBULANI RATSHITANGA AND THE UNIVERSITY**

In this matter Mr Humbulani Ratshitanga was in the employment of the University on probation. On 31 March 2002 his probation period was not extended. He then lodged a complaint of unfair dismissal with the CCMA against the University.

The University instructed the firm of Matshego Ramagaga to handle the case. During the hearing it then transpired that the University had omitted to conduct an enquiry before terminating Mr Ratshitanga's services. However, the matter is now settled.

The attached statement of account is in respect of services rendered by the said lawyers. The statement has been duly taxed.

I therefore recommend that a cheque in the sum of R40 707-45 be issued in favour of Matshego Ramagaga Attorney.

ADV M J MUSHASHA
ACTING LEGAL ADVISER TO THE VICE-CHANCELLOR AND PRINCIPAL

/apn

RECEIVED
OFFICE OF THE VICE-CHANCELLOR AND PRINCIPAL
2002 -10- 24
COPY FOR YOUR ATTENTION/INFORMATION
Mr Madzhie; Adv Mushasha

Approved for payment.
25/10/2002

ANNEXURE "D"

# UNIVERSITY OF VENDA FOR SCIENCE AND TECHNOLOGY

## MEMORANDUM

Staff Affairs
Council Secretariat
For your attention
18/03/02

**TO** : **The Vice Chancellor and Principal**

**FROM** : **Office of the Legal Adviser**

**DATE** : **05 March 2002**

18/3/02

**PAYMENT OF MEDICAL EXPENSES TO MR J KHUBANA**

The attached documentation refers.

My sympathy goes to Mr J Khubana, but I reckon this is one of those special cases not covered by University policy that require the approval of Council.

The law holds the employer vicariously liable for negligent acts of its employees committed during the course of employment.

**Recommendations**

It is recommended that the case be submitted to Council with the necessary payment slips for consideration.

.....

**Adv. M N LIDOVHO**
Legal Adviser to the Vice Chancellor and Principal

Annexure "E"

UNIVERSITY OF VENDA
FOR SCIENCE AND TECHNOLOGY

MEMORANDUM

TO : THE VICE CHANCELLOR & PRINCIPAL

FROM : OFFICE OF THE LEGAL ADVISER

DATE : 3rd NOVEMBER 2003

**RE : ACCOUNTS : THOMAN JOHANNES KHUBANA vs UNIVERSITY OF VENDA**

Attached hereto please find the taxed bills in respect of the above matter. University attorneys, Matshego Ramagaga negotiated a settlement with Mr Khubana in terms of which the University has to pay an amount of R196 262.00 in respect of injuries to Mr Khubana and also carry the costs of the other party.

The account for University Attorneys amounts to R46 775.31 after tax and those of Mr Khubana attorneys viz. Phillemon Siliga Attorneys amounts to R44 226.32 after taxation.

**Recommendations**

It is recommended that:-

1. A cheque for R46 775.31 be issued payable to Matshego Ramagaga Attorneys.

2. A cheque for R44 226.32 be issued payable to Phillemon Siliga Attorneys.

Adv. M.N. Lidovho
Legal Advisor to the Vice Chancellor and Principal

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Annexure "F"

# UNIVERSITY OF VENDA FOR SCIENCE AND TECHNOLOGY

## MEMORANDUM

**TO** : **The Vice Chancellor and Principal**

**FROM** : **Office of the Legal Adviser**

**DATE** : **29 May 2003**

**ALLEGATIONS OF MISCONDUCT: MRS H OLIVIER**

This is the case where the Executive Dean, Ms Ralebipi took the matter up with your office when Mrs Olivier allegedly, whilst attending a School Board meeting on 9 April 2003, "got furious when called to order, and literally stormed out of the meeting in full view of other members of the Board".

I investigated the allegations against Mrs Olivier and she forwarded the attached letter to my office plus a doctor's medical certificate. The letter is self explanatory.

**Recommendations**

It is recommended that she be given the benefit of the doubt, and the matter be laid to rest.

.....
**Adv. M N LIDOVHO**
**Legal Adviser to the Vice Chancellor and Principal**

RECEIVED
OFFICE OF THE VICE-CHANCELLOR AND PRINCIPAL
2003 -05- 30
COPY FOR YOUR ATTENTION/INFORMATION

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Annexure "G"

UNIVERSITY OF VENDA FOR SCIENCE AND TECHNOLOGY

SCHOOL OF MANAGEMENT SCIENCES AND LAW

MEMORANDUM

RECEIVED
OFFICE OF THE VICE-CHANCELLOR
AND PRINCIPAL
2003 -06- 03
COPY FOR YOUR ATTENTION/INFORMATION

To : Prof G M Nkondo
Vice Chancellor and Principal

From : P R Mawila
Deputy Dean: School of Management Sciences and Law

Date : 3rd June 2003

**ALLEGATIONS OF MISCONDUCT: MRS F E M OLIVIER**

From a reading of the minutes of the meeting of the School of Human and Social Sciences held on the 9th April 2003 and from a discussion of the matter with the School Administrator, Mr A T Mmbadi, it appears the misconduct has been committed. I have also been advised the following can testify to the commission of the misconduct:

- ➔ Ms SK Muthambi
- ➔ Ms M G Lamola
- ➔ Dr R F Ntsanderi
- ➔ Prof MDR Ralebipi

Let's proceed as advised. I'm inclined to accept the recommendation

In the light of the above I advise the disciplinary procedure started be proceeded with.

I advise accordingly.

3/6/03

Kind regards.

P R Mawila
Deputy Dean: School of Management Sciences and Law

Annexure "H"

UNIVERSITY OF VENDA FOR
SCIENCE AND TECHNOLOGY

# MEMORANDUM

| | | |
|---|---|---|
| **TO** | : | **The Vice Chancellor and Principal** |
| **FROM** | : | **Office of the Legal Adviser** |
| **DATE** | : | **25 November 2002** |

**AMEER MOOSAGIE / UNIVERSITY OF VENDA / CASE NO 438/02**

This matter involves payment for a Microwave Lab Station. It appears from the available documentation that your office had instructed Dr J Mashimbye and one Silas to attend to the payment thereof which was not done. Dr Mashimbye however denies this fact.

On 27 August 2002, Mr Moosagie issued summons against the University. On 29 August 2002 Adv. Mushasha wrote a memorandum to the Deputy Vice Chancellor; Academic Affairs and Research recommending that University lawyers be instructed to defend the matter while at the same time tendering the release of the Lab Station.

The Deputy Vice Chancellor; Academic Affairs and Research instructed Adv. Mushasha to instruct our attorneys as recommended. The sad fact is that the matter never reached the attention of University lawyers and was therefore not defended. Mr Moosagie proceeded with the case up to a stage where default judgment was obtained and a warrant of execution issued.

The only way to proceed now is either to make an application for rescission of judgment or settle the matter. To apply for a rescission of judgment, we need to have good reasons for both condonation and defense which, in my opinion, we do not have.

RECEIVED
OFFICE OF THE VICE-CHANCELLOR
AND PRINCIPAL
2002 -11- 25
COPY FOR YOUR ATTENTION/INFORMATION

Please let's get a second opinion from counsel before we proceed

25/11/02

Mr Moosagie has made a proposal to the effect that we pay him the original amount claimed for the equipment which is R250 000,00 either with vat or with his legal costs.

**Recommendations**

It is recommended that the University agree to pay the amount of R250 000,00 plus his legal costs.

**Adv. M N LIDOVHO**
**Legal Adviser to the Vice Chancellor and Principal**
/wt

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Annexure "I"

# UNIVERSITY OF VENDA FOR SCIENCE AND TECHNOLOGY

## MEMORANDUM

**TO** : **The Vice Chancellor and Principal**

**FROM** : **Office of the Legal Adviser**

**DATE** : **27 January 2003**

**AMIER MOOSAGIE / UNIVERSITY OF VENDA**

This matter involves payment for a microwave Lab Station. It appears from the availiable documentation that your office had instructed Dr J Mashimbye and one Silas to attend to the payment thereof which was not done. Dr Mashimbye however denies this fact.

On 27 August 2002, Mr Moosagie issued summons against the University. On 29 August 2002, Adv. Mushasha wrote a memorandum to the Deputy Vice Chancellor, Academic Affairs and Research recommending that University lawyers be instructed to defend the matter while at the same time tendering the release of the Lab Station.

The Deputy Vice Chancellor, Academic Affairs and Research instructed Adv. Mushasha to instruct our attorneys as recommended. The said fact is that the matter never reached the attention of University lawyers and was

therefore not defended. Mr Moosagie proceeded with the case up to a stage where default judgement was obtained and a warrant of execution issued.

On 15 November 2002, my office handed the case to attorneys Matshego Ramagaga as per your instructions, to handle the matter on our behalf.

On 22 November 2002, attorneys Matshego Ramagaga wrote to us giving us two options for settling the matter and asking for our instructions. On 25 November 2002, I wrote an opinion to your office advising on the option that the University should follow to settle the matter. I recommended that we pay the amount of R250 000,00 being the cost price for the Lab Station as well as Moosagies legal costs. You referred my opinion to University lawyers for a second opinion, which opinion was never forwarded, despite their receipt of your request.

The above delay left Mr Moosagie lawyers with no other option but to proceed with removal and a sale in execution of the judgment. Three University vehicles are up for sale in execution on 31 January 2003.

On 27 January 2003, I spoke to Ms Ramagaga of Matshego Ramagaga attorneys informing her of the developments with regard to the case. She confirmed that she should have come back to you on 25 November 2002 with an opinion , but failed.

To resolve the matter, she communicated with Moosagie who agreed to stop the Sale in Execution on condition the University makes an undertaking to pay him the cost price of the Lab Station i.e R250 000,00 by not later than

Friday, 31 January 2003, and also to pay his legal costs, at a later stage. Ms Ramagaga has since forwarded her opinion which supports my earlier opinion to your office (see attached document).

**Recommendations**

I recommend, as I did on 25 November 2002, that the University agree to pay the amount of R250 000,00 for the Lab Station as well as Mr Moosagie's legal costs.

It is further recommended that the amount of R250 000,00 be paid by not later than Friday, 31 January 2003.

.....

**Adv. M N LIDOVHO**
**Legal Adviser to the Vice Chancellor and pprincipal**

Cc: Mr R J Madzhie
Exec Director, Financial Management Planning

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Annexure "J"

# UNIVERSITY OF VENDA FOR SCIENCE AND TECHNOLOGY

## Charge Sheet

**TRINANDI CUBA JOHN NNZERU (Staff no. 4932)**

You are hereby charged with contravening section 90(1)(d) of the University of Venda Statute in that on or around the 14th day of May 2003 you received a copy of the memorandum from the Azanian Youth Convention (AZASCO) addressed to the Vice Chancellor and Principal questioning the purchase of suits by the University for the Student Representative Assembly (SRA) President as well as the SRA Secretary General, and knowingly failed to explain to AZASCO how and why such a decision by the University was arrived at. You were therefore, in your capacity as Director: Student Affairs, negligent or indolent in the discharge of your duties.

.....

**Prof. G M NKONDO**
**Vice Chancellor and Principal**
/wt

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Annexure "K"

# UNIVERSITY OF VENDA
## for SCIENCE AND TECHNOLOGY
## MEMORANDUM

TO : THE VICE CHANCELLOR AND PRINCIPAL

FROM : LEGAL ADVISOR'S OFFICE

DATE : 5th FEBRUARY 2004

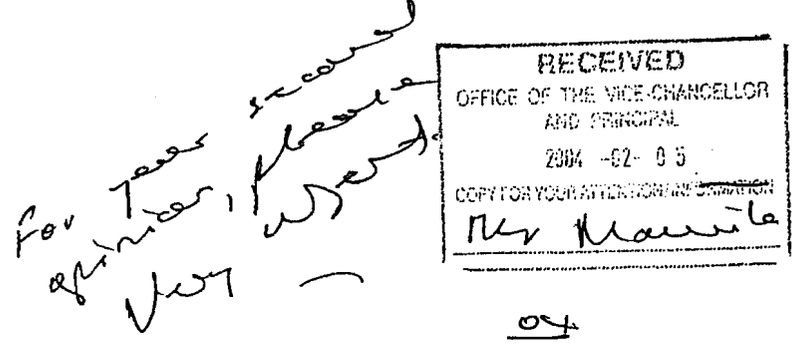
**RE : SENATE ELECTIONS**

I refer to our brief conversation on 4 ~~January~~ February 2004, regarding the above.

Further to the above issue kindly note that it is my considered opinion that the Senate of the University of Venda cannot continue to be constituted in terms of the old University of Venda (Private) Act 1996, Act (89 of 1996). The Higher Education Amendment Act 23 of 2001 repealed this act.

Section 28(2) of the Repealing Act gave institutions a period of two (2) years to operate on the basis of their repealed private Acts before amending their Institutional Statutes. This is the reason my office alerted your office immediately after coming back from my long leave in 2002 and also initiated a process of amending our Institutional Statute until your office stopped me and handed the function to the Legal Services Committee.

The only recourse, for the institution would be to conduct elections in terms of guidelines provided by section 28 (2) of the Higher Education Act of 1997, which guidelines unfortunately are not enough, for lack of specificity, e.g. section 28(2)(c) refers to academic employees of the Public Higher Education Institution but does not stipulate how many, should be "elected" into Senate.



Recommendations

It is recommended therefore that Senate elections be put on hold, until after the finalization of the University of Venda Statute, and after publication of the new Government gazette by the Minister of Education.

Adv. M.N. Lidovho
Legal Advisor to the Vice Chancellor and Principal

cc. Deputy University Registrar

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Annexure "L"

# UNIVERSITY OF VENDA FOR SCIENCE AND TECHNOLOGY

## MEMORANDUM

**TO** : **The Vice Chancellor and Principal**

**FROM** : **Office of the Legal Adviser**

**DATE** : **04 March 2003**

[redacted]

This is to confirm that we discussed the above aspects yesterday and you instructed me to proceed as follows:-

1. The consultation process with regard to the University Statute should not be stopped, but the inputs from structures should serve before the Legal Services Committee for their determination and recommendation to your office. The overall process of finalising the Statute should be driven from the office of the Legal Adviser.

2. The Legal Adviser should use his discretion to refer matters to the Legal Services Committee. In some instances he should feel free to consult with any one of the four lawyers in the Legal Services Committee depending on their field of expertise. This will limit the Vice Chancellor from seeking second legal opinions after the advise of the Legal Adviser.

3. Legal opinions should not be delayed pending meetings of the Legal Services Committee.

4. There are also cases that some members of the Legal Services Committee might not be eligible to entertain, e.g. where they actively participated in the Disciplinary Enquiries e.g. as pro-forma prosecutors.

**Recommendations**

It is recommended that you kindly advise if the above is the correct understanding on how to proceed.

.....

**Adv. M N LIDOVHO**
**Legal Adviser to the Vice Chancellor and Principal**

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

U

Annexure "M"

UNIVERSITY OF VENDA FOR SCIENCE AND TECHNOLOGY

To: Office of the Legal Adviser

From: The Vice Chancellor and Principal

Date: 25 March 2003

[redacted]

Your memo dated 04 March 2003 refers.

1) The Legal Adviser should consult the Legal Services Committee before making recommendations to the Vice Chancellor and Principal.

2) However, in cases that require urgent attention, the Legal Adviser should use his discretion to consult with any one of the lawyers in the Legal Services Committee, depending on their field of expertise.

3) Members of the Legal Services Committee must commit themselves to attend all ordinary meetings so that legal opinions are not delayed.

4) Members of the Legal Services Committee may not be involved in discussions of Disciplinary Enquiries in which they participated, say, as pro-forma prosecutors.

5) The Legal Services Committee has the responsibility to co-ordinate the overall process of drafting the Statute for submission to Council.

6) All Legal opinions on all University matters must be addressed to the Vice-Chancellor and Principal.

Thank you,

Prof. G M Nkondo
Vice Chancellor and Principal

ANNEXURE "N"

# UNIVERSITY OF VENDA FOR SCIENCE AND TECHNOLOGY

## MEMORANDUM

**TO** : **Deputy Vice Chancellor and Vice Principal Academic Affairs and Research**

**FROM** : **Office of the Legal Adviser**

**DATE** : **26 March 2003**

**REVISED UNIVERSITY STATUTE**

Kindly note that the responsibility to co-ordinate the overall process of drafting the University Statute is now in the hands of the Legal Services Committee chaired by Mr P Mawila.

All matters related to the draft University Statute should therefore be addressed to the said Committee.

.....

**Adv. M N LIDOVHO**
**Legal Adviser to the Vice Chancellor and Principal**

Annexure "O"

UNIVERSITY OF VENDA
for SCIENCE AND TECHNOLOGY

# MEMORANDUM

TO : THE LEGAL ADVISER TO THE VICE CHANCELLOR AND PRINCIPAL

FROM : THE VICE CHANCELLOR AND PRINCIPAL

DATE : 16TH FEBRUARY 2004

**RE : UNIVERSITY STATUTE : WAY FORWARD**

I refer to our discussions this afternoon, and also to my memorandum to your office dated 25 March 2003.

I have decided after reviewing the situation that the overall process of drafting, co-ordinating and finalizing the University Statute for submission to Council should now be driven from the Office of the Legal Adviser. The Legal Services Committee should assist your office where necessary.

Prof G.M. Nkondo
Vice Chancellor and Principal

cc. Chairperson : Legal Services Committee

OFFICE OF THE DEPUTY-DEAN
SCHOOL OF MANAGEMENT
SCIENCES AND LAW
2004 -02- 16
Received
UNIVERSITY OF VENDA FOR
SCIENCE AND TECHNOLOGY

1

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Annexure "P"

# Charge Sheet

## PROF. BEN VAN DER WAAL ( STAFF N0. )

Charge 1 :

Dates ?

You are charged, in your personal capacity and also as an executive committee member of the University of Venda branch of the National Tertiary Education Staff Union (NTESU), with contravening Section 90(1)(b) of the Statute of the University of Venda during or about the middle of 2000 by participating in,causing or permitting to cause or conniving at the academic staff, administration staff, auxiliary staff and students going on an illegal strike and marching off campus during office hours. Your said conduct was prejudicial to the administration, discipline or efficiency of the University.

Charge 2 :

Date ?

You are hereby charged with contravening Section 90(1)(c) of the Statute of the University of Venda by disregarding, disobeying or wilfully defaulting in carrying out a lawful order given to you in that during or about the middle of 2000 you organised and became a member of an unrecognised body viz, the "University Community Forum", held unauthorised meetings during working hours without permission from the authorities of the university.

Charge 3 :

You are charged with contravening Section 90(1)(d) of the Statute of the University of Venda during or about the middle of 2000 by being negligent or indolent in the execution of your duties in that you negligently or indolently discontinued the necessary duties without caring what your disruptive conduct would cause and or wilfully aimed at causing such adverse results.

UNIVERSITY OF VENDA
PRIVATE BAG X5050, THOHOYANDOU, 0950 • NORTHERN PROVINCE • SOUTH AFRICA
TELEPHONE (015) 962 8316/962 8105 • FAX (015) 962 4742
E-MAIL gnkondo@caddy.univen.ac.za

Charge 4 :

You are charged, in your personal capacity and also as an executive committee member of NTESU, with contravening Section 90(1)(f) of the Statute of the University of Venda in that you, during or about the middle of 2000, without attempting to ascertain the factual situation, publicly commented adversely on the administration of the University.

Charge 5 :

You are charged, in your personal capacity and also as an executive member of NTESU, with contravening Section 90(1)(l) of the Statute of the University of Venda during or about April and May, 2000, you misappropriated or improperly used the University computer under your care and control by using and or allowing the use of the said computer for calling unauthorised meetings, issuing unauthorised e-mails and permitting SK Parmanand who was not a member of staff to publish his adverse e-mail through it.

Charge 6 :

You are charged , in your personal capacity and also as an executive committee member of NTESU, with contravening Section 90(1)(r) of the Statute of the University of Venda during or about the middle of 2000 by stopping, causing, and or conniving at stopping the academic staff, administration staff, the auxiliary staff from performing their duties which imperiled the teaching, reserch adminsitration and general activities at the university.

Charge 7 :

You are charged, in your personal capacity and also as an executive member of NTESU, with contravening Section 90(1)d(n) of the Statute of the University of Venda during or about the middle of 2000, by being absent from your office or duty without leave or a valid reason.

.....

PROF. MG NKONDO
Vice Chancellor and Principal

Annexure "Q"

# Charge Sheet

## DR. JEFF MASHIMBYE ( STAFF NO. )

Charge 1:

You are charged, in your personal capacity and also as an executive committee member of National Tertiary Eduction Staff Union (NTESU), with contravening Section 90(1)(b) of the Statute of the University of Venda during or about the middle of 2000 by participating in, causing or permitting to be caused or conniving at the administrative staff, academic staff and the auxiliary staff going on an unlawful strike and marching off campus during working hours under the umbrella of the unrecognised body, the "University Community Forum". Your conduct was prejudicial to the administration, discipline or efficiency of the University.

Charge 2:

You are charged with contravening Section 90(1)(c) of the Statute of the University of Venda by disregarding, disobeying or wilfully defaulting in carrying out a lawful order given to you in that during or about the middle of 2000 you organised and became a member of an unrecognised body viz the " University Community Forum", held unauthorised meetings during working hours without the permission of the authorities of the University.

Charge 3:

You are charged with contravening Section 90(1)(d) of the University of Venda Statute during or about the middle of 2000 by being negligent or insolent in the execution of your duties in that you negligently or insolently discontinued executing the necessary duties without caring what your disruptive conduct would cause or wilfully attempting to cause such intended adverse results.

UNIVERSITY OF VENDA
PRIVATE BAG X5050, THOHOYANDOU, 0950 • NORTHERN PROVINCE • SOUTH AFRICA
TELEPHONE (015) 962 8316/962 8106 • FAX (015) 962 4742
E-MAIL gnkondo@caddy.univer.ac.za

Charge 4 :

You are charged, in your personal capacity and also as an executive committee member of NTESU, with contravening Section 90(1)(f) of the Statute of the University of Venda in that you, during or about the middle of 2000 without attempting to ascertain the factual situation, publicly commented adversely about the administration of the University. What did he say ?

Charge 5 :

You are charged, in your personal capacity and also as an executive committee member of NTESU, with contravening Section 90(1)(r) of the Statute of the University of Venda during or about the middle of 2000 by stopping, causing, encouraging and or conniving at stopping the academic staff, administration staff, and the auxiliary staff from performing their duties. Your conduct imperiled or could possibly have imperiled the teaching, research administration and general activities at the University.

Charge 6 :

You are charged , in your personal capacity and also as an executive committee member of NTESU, with contravening Section 90(1)(n) of the Statute of the University of Venda during or about the middle of 2000, by being absent from your office or duty without leave or a valid reason. ?

.....
PROF. MG NKONDO
Vice Chancellor and Principal

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Annexure "R"

UNIVERSITY OF VENDA

for SCIENCE AND TECHNOLOGY

# MEMORANDUM

TO : THE VICE CHANCELLOR AND PRINCIPAL
PROF. G. M. NKONDO

FROM : LEGAL ADVISOR'S OFFICE

DATE : 28th t NOVEMBER 2003

**RE : UNIVEN/S.P. OLIVIER JR 584/2002 : ACCOUNT BY ADV. DUBA**

On 20 November 2003, my office receive Adv. Dubas account to the tune of R103 312.50 in the above matter. Attached to the account was a letter by P Ellis who Adv. Duba says is an Acting Convener : Fee Committee with the Pretoria Society of Advocates. Mr P. Ellis indicates on the letter that he recommends that the fees be paid as no dispute was declared when he was looking into the fees.

On 25 November 2003, the university wrote a letter to attorneys Matshego Ramagaga reminding them of the agreement reached with them that all accounts that are forwarded to the University for payment should be subjected to taxation. Indeed in the past we have taxed several accounts submitted by Adv. Duba. In some instances, Adv. Duba even quoted extensively from legislation defending his right to personally appear before the taxing master when his accounts are taxed.

It appears this time Adv. Duba is not willing to subject his account to taxation and he alleges in his memorandum that at the consultation he held with you on 16 November 2003, he promised to write a letter to you, through the office of the University Attorneys, explaining the reason why his account

cannot wait for the taxation of their accounts in this matter. He admits that he failed to provide you with the said letter as promised.

The problem my office has in this matter is that even with the new adopted procedure by Adv. Duba, the University was not a party. It is my considered opinion that the University would be persuaded to agree if we were informed in advance to avail ourselves in order to protect the University's interests. Instead we learn that Attorneys Matshego Ramagaga indicated to Mr P. Ellies that the fees are acceptable both in respect of the rate and hours worked. It should be noted here that during taxation University Attorneys do not represent the University, but themselves and Counsel, who is Adv. Duba in this case. It is clear therefore that the interests of the University were not protected during the proceedings as the University was not represented.

I indicated to attorneys Matshego Ramagaga that the University would, if it was represented, declare a dispute with regard to the number of hours worked, for unreasonableness. Two cases in point are where perusal and re-arrangement of the record of arbitration proceedings takes forty (40) hours, and again where preparation for argument and drafting of Supplementary Heads of Arguments also takes forty (40) hours.

**Recommendations**

It is recommended that Adv. Dubas Account be subjected to taxation as has always been the procedure in the past.

Alternatively, should a different route to suggested and agreed upon, the University be invited to take part in the proceedings to protect its interests.

Adv. M.N. Lidovho
Legal Advisor to the Vice Chancellor and Principal

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

# MR
# MATSHEGO RAMAGAGA
## ATTORNEYS • BABUELEDI

800 WILLIE THERON BUILDING
812 BOSMAN STREET
PRETORIA 0002

PO BOX 12000
TRANSHED
0125

Your Ref: Prof.Nkondo — Tel / Fax: (012) 321-1125

Our Ref: Ms Choshane/rm/2/53/2002 — Tel: (012) 321-3000

Date: 28th November 2003

To:
THE OFFICE OF THE VICE CHANCELLOR
UNIVERSITY OF VENDA
THOHOYANDOU

FAXED

Fax No.(015) 962 4742

Pages: including cover

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Sirs,

**RE: UNIVERSITY OF VENDA/COMMISSION FOR CONCILIATION, MEDIATION AND ABITRATION; MZUNGULU MTHOMBENI N.O & STEPHANUS PETRUS OLIVIER- JR584/2002.**

The above matter and your letter dated the 25th instant refers.

Herewith copy of the memorandum send to our office from Adv. Duba, which contents are self explanatory.

Yours Faithfully

MATSHEGO RAMAGAGA

RECEIVED
OFFICE OF THE VICE-CHANCELLOR AND PRINCIPAL
2003 -12- 02
COPY FOR YOUR ATTENTION/INFORMATION
Mrs Nazel

Annexure "S"

UNIVERSITY OF VENDA FOR SCIENCE & TECHNOLOGY

MEMORANDUM

TO : Prof. G M Nkondo
Vice-Chancellor & Vice-Principal

FROM: Office of the Legal Adviser

DATE: 11 November 2003

RE: OUTSOURCING OF SECURITY SERVICES

Further to the above matter, kindly note that my office was facilitating the above exercise on behalf of the then Vice-Principal, Resources Management and Planning. The Director: Resource Management and Planning was also part of the team.

Attorneys Manamela Damons Mbanjwa were hired, as consultants to implement the process for the University. The exercise has now reached an advanced stage and a lot of university resources have been expended on the exercise. The attorneys are also of the view that the above process should be finalised as it has reached its final stages.

RECOMMENDATIONS

It is recommended, in view of the efforts that have already been put into the exercise, that the attorneys be given the go-ahead to finalise the OUTSOURCING.

Adv. M N Lidovho
Legal Adviser to the Vice-Chancellor & Principal

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OFFICE OF THE VICE-CHANCELLOR
AND PRINCIPAL
2003 -11- 11

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Annexure "U"

UNIVERSITY OF VENDA FOR SCIENCE & TECHNOLOGY

OFFICE OF THE DEPUTY-DEAN
SCHOOL OF MANAGEMENT
SCIENCES AND LAW
2003 -12- 11
UNIVERSITY OF VENDA FOR
SCIENCE AND TECHNOLOGY

MEMORANDUM

RECEIVED
OFFICE OF THE VICE-CHANCELLOR
AND PRINCIPAL
2003 -11- 07
COPY FOR YOUR ATTENTION/INFORMATION
Mr Mantsha

TO : Prof. G M Nkondo
Vice-Chancellor & Principal

FROM: Office of the Legal Adviser

DATE: 07 November 2003

Yours sincerely please

APPLICATION FOR LEAVE TO APPEAL: UNIVEN/R M NETSHIAVHA (SRA PRESIDENT)

10/11/03

Further to the above matter, kindly note that the above application was heard on 6 November 2003. Adv. T.P Snyman appeared on our behalf, Mr Matodzi being the briefing attorney.

Judge Hetisani refused our application on the basis that he doesn't believe another Judge can reasonably come to a different finding on the matter. I am however of the opinion that we had strong points *in limine* on the basis of which the students application could have been dismissed e.g. I believe that students had enough time to could have brought this application to court either by way of action procedure or by way of normal motion procedure, where witnesses could have been called to substantiate the University case. Again there is the question of mandate which affects the applicant's standing in Court (locus standi). There was no resolution by the Student Representative Assembly where the President was mandated to bring this application. We also had a dispute of material facts.

It is however my submission that, save for the above points *in limine*, our case on the merits is considerably weak. The fees booklet that was issued by the University at the beginning of the year categorically specified the closing date for payment of fees as 30th November 2003. Subsequent summits were held with parents/ guardians of the students where this date was subsequently changed to 31 October 2003. We however do not have a register of attendance to show how many parents/guardians attended these summits. The judge is of the view that parents/guardians and sponsors budgeted for the students in terms of the fees booklet/ and to change the date at this time will be prejudicial to a number of students who will, as a result, fail

to write their exams. It is my submission here that this error of judgement on the part of the university will weigh heavily against us, even on appeal. It appears however that our attorneys believe we have a strong case on merits, which view I do not share.

Again, to proceed with this case will only have academic merits, as all students are writing and they will be finalising their exams soon. You indicated on 1 November 2003, when I suggested we drop the matter, that you feel the university should proceed to apply for leave to appeal and also proceed with the appeal on principle basis. It is my view here that it may not be in the interests of the University to go from pillar to post with a view to obtain a principle decision which does not substantively change our position on the ground. The judge is not saying students should be allowed to write exams without payment, in future. What he is saying is that in this particular case, the communication emanating from the University to students, parents/guardians and sponsors was inconsistent and confusing. The lesson to be learned here is to try and be consistent in conveying our messages in future,and we shall be fine. Again, to continue with the case will be financially draining to the institution,which I believe is financially tight at the moment.

## RECOMMENDATIONS

It is recommended, in view of the above that:

1. We request a final and taxed statement of account from A Matodzi Attorneys Incorporated, for payment.

2. We pursue this matter no more i.e. we do not petition the president of the Supreme Court of Appeal for special leave to appeal.

Kind Regards.

M N Lidovho
**Legal Adviser to the Vice-Chancellor & Principal**

cc. Deputy University Registrar

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Annexure "V"

# UNIVERSITY OF VENDA FOR SCIENCE AND TECHNOLOGY

## MEMORANDUM

TO : The Vice Chancellor and Principal

FROM : Office of the Legal Adviser

DATE : 13 January 2003

**ADVISE ON SENTENCING: DISCIPLINARY HEARINGS**

I note with regret that Mr P Mawila has been offering legal opinions to your office in respect of Disciplinary sentences.

Mr Mawila should have assisted your office by declining to offer his opinions in cases where he was actively involved, especially as a pro-forma prosecutor. This constitutes a very serious irregularity that will prove very costly to the University at the end.

**Recommendations**

It is recommended that the above practice be stopped forthwith, and all recommendations from Mr Mawila be ignored accordingly.

.....

**Adv. M N LIDOVHO**
**Legal Adviser to the Vice Chancellor and Principal**

It is true a fact the case is not to be advised. Thanks for the tone of your letter. The tone of this letter is not appropriate Legal

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OFFICE OF THE VICE-CHANCELLOR AND PRINCIPAL
2003 -01- 13
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14/1/03

Annexure "11"

# UNIVERSITY OF VENDA
# For SCIENCE AND TECHNOLOGY

## MEMORANDUM

TO : THE VICE CHANCELLOR AND PRINCIPAL

FROM : OFFICE OF THE LEGAL ADVISOR

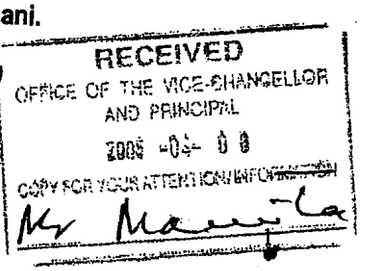
DATE : 8 APRIL 2005

**RE : ARBITRATION AWARD : NYAMBENI FREDDY RUMANI**

This is the matter where Mr N F Rumani was dismissed from his employment at the University for misappropriation of University assets. This case cost the University a lot of money in that we had to ensure that University witnesses are transported to Polokwane and booked in hotels. Again, University Attorneys, Matshego Ramagaga billed us astronomical amounts for costs.

It was agreed after parties closed their cases (that is, after witnesses finished testifying) that legal representatives will submit to the Commissioner **written legal arguments**. Submission dates were agreed upon and our attorney **Matshego Ramagaga** agreed to submit her legal arguments as arranged.

**It has become clear now that Ms Ramagaga failed to submit her legal arguments and the case was only decided, on the basis of legal arguments, submitted by Adv. Sikhwari, who represented Mr Rumani.**




For your opinion please!

11/4/05

Done on 11/4/05

The above conduct by Ms Ramagaga constitutes a serious violation of the confidence and trust between attorney and client. It is also an infringement of ethics which could be reported to the Law Society, with serious repercussions for the attorney. **The University on the other hand lost a case which it could have easily won, had our attorney done what was agreed upon. This in fact amounts to gross neglect of duty.**

I would like to raise another spectre in this matter, which I believe is inextricably bound to the issue at hand. You will recall that your office gave Adv. M J Mushasha instructions in 2001 to remove all our cases from Attorney J Lebea to Matshego Ramagaga attorneys in Pretoria. This instruction actually meant we are removing University cases from a labour law practitioner to a general legal practitioner. I have, since coming back in 2002, impressed upon your office on several occasions, that there is a need to change University lawyers, without obtaining a formal go-ahead. You will realise the emergence of a pattern where the University is losing simple cases like that of K S Negota, which was handled by Ms M Choshane and now this one of N F Rumani handled by Ms Ramagaga .

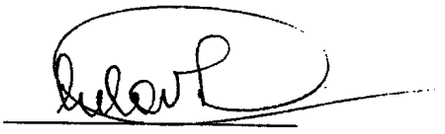
**Recommendations**

It is recommended in view of the above that:

(i) We pay to Mr N F Rumani an amount of R106 662-00, as per arbitration award,

(ii) We remove all cases currently being handled by Matshego Ramagaga and Choshane attorneys and hand them over to a labour law practitioner.

(iii) We investigate possibilities of recouping University losses in the Rumani case from attorneys Matshego Ramagaga. These losses include legal costs, the award and other expenses. All these can easily be attributable to our attorneys neglect of duty.



Adv. M N Lidovho

Legal Advisor to the Vice Chancellor and Principal

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Annexure "12"

OFFICE OF THE ASSISTANT VICE-CHANCELLOR AND PRINCIPAL
2005 -04- 06
COPY FOR YOUR ATTENTION/INFORMATION

# UNIVERSITY OF VENDA For SCIENCE AND TECHNOLOGY

## MEMORANDUM

TO : THE VICE CHANCELLOR AND PRINCIPAL

FROM : OFFICE OF THE LEGAL ADVISOR

DATE : 6 APRIL 2005

**RE : K.S. NEGOTA / THE UNIVERSITY OF VENDA**

Attached hereto please find a copy of the arbitration award in respect of the above case. Mr Negota went to the CCMA for arbitration, after he was dismissed for conducting private work without Council's permission.

**Observation**

It is clear from the award that Mr Negota presented two claims for arbitration, viz. unfair labour practice and unfair dismissal. The Commissioner found in favour of the University in respect of the first claim, in that Mr Negota has failed to discharge the onus of proving that an unfair labour practice has been committed.

The Commissioner however found in favour of Mr Negota on the second claim of unfair dismissal. Here the applicant (employee) just makes an allegation and the onus is upon the employer to prove that the dismissal was substantively and procedurally fair. The commissioner, in this second claim found in favour of Mr Negota for two reasons. Firstly, the chairperson Mr SKS Makhambeni failed to

recuse himself from the second hearing, despite the fact that a case of "the possibility of reasonable bias" had been established against him. Secondly, the Commissioner took the view that staff members at the Law School are allowed to do private practice provided they do not abuse the privelege. The Commissioner is therefore of the view that Mr Negota has been "singled out" for punishment in this regard. Adv. M J Mushasha who was called in as a witness for the University could not challenge the fact that other staff members in the Law School indeed do private work, and some have even opened law firms elsewhere.

**Recommendation**

It is my view that the Commissioner's personal statement that "it is common practice for lecturers especially those involved in the law faculty to engage in private practice" leaves much to be desired. I am nevertheless of the opinion that to pursue this matter further will be a waste of University resources.

It is therefore recommended that an amount of R111 476.75 equivalent to Mr Negota's seven (7) months salary, be paid as compensation.

Adv. M N Lidovho
Legal Advisor to the Vice Chancellor and Principal

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA



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2002-12-11
OFFICE OF THE
VICE-PRINCIPAL

RECEIVED
OFFICE OF THE DEPUTY VICE-CHANCELLOR
ACADEMIC AFFAIRS & RESEARCH
2002-12-12
SIGN FOR YOUR ATTENTION / INFORMATION

MINISTRY OF EDUCATION

Sol Plaatje House
123 Schoeman Street
Private Bag X603
Pretoria 0001, South Africa
Tel. +27 12 324-0126, Fax +27 12 323-5989

120 Plein Street
Private Bag X9034
Cape Town 8000, South Africa
Tel. +27 21 465-7350, Fax +27 21 461-4788

Dr Barney Pityana
Chairperson of Council
University of Venda
P/Bag X634
THOHOYANDOU
0950

By Fax: (012) 429 2565/(015) 962 4742

Dear Barney

**RESTRUCTURING: UNIVERSITY OF VENDA**

I am writing to inform you that after considering the advice of the Council on Higher Education, as well as the representation made by the University, I have decided not to merge the University of Venda with the University of the North and the Medical University of Southern Africa, as outlined in Notice Number 868 in the Government Gazette (Number 23550) of 24 June 2002.

I have decided instead that the University of Venda should refocus its mission and become a comprehensive institution offering technikon-type programmes, as well as a limited number of relevant university-type programmes. The precise balance between the different types of programmes will be determined as part of the institutional three-year "rolling" plan process.

I should indicate that my decision has the full support of the Cabinet, which approved the proposals for the restructuring of the institutional landscape of higher education on 4 December 2002.

My Department will contact the Vice-Chancellor early in the New Year to discuss these and other matters.

The Cabinet's approval of the restructuring proposals brings to a close the wide-ranging investigations and consultations on the restructuring and transformation of the higher education system. I am certain that all constituencies will agree that the direction and certainty that this provides will enable institutions to develop and plan for the future with a clear vision and mission. This will contribute to stabilising and strengthening the higher education system, which will enable the development of a higher education system that is sustainable, of high quality and responsive to the national development agenda.

UNIVERSITEIT VAN PRETORIA
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YUNIBESITHI YA PRETORIA



The successful implementation of the restructuring proposals will require the full weight of all constituencies both within and outside the higher education system. I trust that I can count on the support of the Council and constituencies of the University in this regard. I look forward to hearing from you.

With my best wishes

Yours sincerely

Prof Kader Asmal, MP
Minister of Education

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Annexure "14"

# SPECIAL INVESTIGATING UNIT

**Established In Terms Of Act 74, 1996**

**Saaiam Park**
**59 Western Avenue**
**Vincent, EAST LONDON, 5247**

**P.O. Box 693, EAST LONDON, 5200**

**TEL: [043] 726 9705**
**FAX: [043] 726 9269/1**
**e-mail: heathsiu@heathsiu.co.za**
**website: www.heathsiu.co.za**

**OUR REF: ADVOCATE M. JARDINE**
**YOUR REF: DR N B PITYANA**

**DATE: 17TH MARCH 2000**
**FAX NO. 011 – 484 8403**
**NO. OF PG'S. ONE**

**Dr N.B. Pityana**
**Chairperson**
**University of Venda Council**
**JOHANNESBURG**

Dear Dr Pityana

**VICE-CHANCELLOR – CREDIT CARD**

Since the meeting the writer and Mr Frank Vos had with you last year concerning the above matter, I am pleased to inform you that resolution has been reached and the Vice-Chancellor will be paying an amount of R161 723,83 (One Hundred and Sixty-One Thousand Seven Hundred and Twenty-Three Rand Eighty-Three Cents) to the Unit in installments, the final payment being at the end of this year.

Once this money has been recovered, it will be paid over to the University.

Our investigations showed that irregular use had been made by the Vice-Chancellor of his credit card. There was no accountability for the charges he incurred, and there was no supporting documentation to prove expenses.

The total charges on the credit card amounted to some R278 136,39 (Two Hundred and Seventy-Eight Thousand One Hundred and Thirty-Six Rand Thirty-Nine Cents). The finance department of the University stated that the Vice-Chancellor had repaid an amount of R47 689,18 (Fourty-Seven Thousand Six Hundred and Eighty-Nine Rand Eighteen Cents). It was further agreed to credit an amount for subsistence and travel which had not been claimed, leaving a balance of R152 622,41 (One Hundred and Fifty-Two Thousand Six Hundred and Twenty-Two Rand Fourty-One Cents), plus interest at the legal rate of 15,5%.

Yours faithfully

**ADVOCATE M. JARDINE**
**SENIOR LEGAL REPRESENTATIVE**
Mmjl-pityana

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA



# VICE CHANCELLOR VENDA - CREDIT CARD

The Unit has completed its investigation into the allegations that there had been unauthorised and/or irregular use of a credit card issued by the University of Venda to the Vice-Chancellor.

The investigations showed that a need was perceived by the Vice-Chancellor and senior officials at the University for the issuing of a credit card in the name of the University for the use by the Vice-Chancellor. The use of the card was to be used in defined circumstances only.

Although the acquisition of the credit card was not originally authorised by the University Council, the Council subsequently authorised the issue of the credit card and appeared to have condoned the prior use thereof.

The investigation revealed that insufficient control was kept by both the Vice-Chancellor and the Finance Department of the University of the expenses charged to the said card.

Monthly accounts of expenses incurred by the Vice-Chancellor were paid by the University without any claim forms from the Vice-Chancellor or supporting documentation for such items.

The investigation showed that improper and irregular use of the credit card was made by the Vice-Chancellor. In total an amount of R200 311,00 (Two Hundred Thousand Three Hundred and Eleven Rand), was improperly charged to the account of the University. The Vice-Chancellor has already repaid a portion of this amount and an agreement has been entered into with the Vice-Chancellor whereby the balance will be repaid to the University before the end of this year.

numjcreditcardsvenda

Annexure "15 "

**THE COUNCIL OF THE UNIVERSITY OF VENDA**

**SPECIAL COMMITTEE REPORT**

**Committee members:**

Prof E T Mokgokong - chairperson

Adv D S Kumalo

Adv K Kekana

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA



**THE COUNCIL OF THE UNIVERSITY OF VENDA**

**SPECIAL COMMITTEE REPORT**

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UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA



**THE COUNCIL OF THE UNIVEN**

**SPECIAL COMMITTEE REPORT**

1. **INTRODUCTION:**

1.1 The Special Committee was appointed by the Council of the University of Venda to investigate the use by the Vice-Chancellor and Principal, Prof Nkondo, of a Master Card credit card issued to him by the then Volkskas Bank, Louis Trichardt branch in April 1995.

1.2 Although not explicitly stated, the period covered by the investigation is from 15 April 1995 to 31 August 1998.

1.2.1 The appointment of the Special Committee by Council followed the completion of investigations by the Heath Special Investigating Unit into the use of this credit card by the Vice-Chancellor over the abovementioned period. In a letter dated 17 March 2000 to Dr N B Pityana, Chairperson of the Council of UNIVEN, the Senior Legal Representative of the Unit, wrote:

> *"Our investigations showed that irregular use had been made by the Vice-Chancellor of his credit card. There was no accountability for the charges he incurred, and there was no supporting documentation to prove expenses."*

1.2.2 The conclusion of "*irregular use*" was based on the professor not being able to account for the charges he had incurred on the credit card and where he could not furnish supporting documents to prove those expenses.

1.2.3 In the event the Special Investigation Unit found that the total charges on the credit card amounted to R278 136,39. When the finance department of the University indicated that the Vice-Chancellor had repaid an amount of R47 689,18 and had not claimed an amount of R77 825,00 for subsistence and travel the aggregate of those two figures were subtracted leaving a balance of R152 622,41 plus interest at the legal rate of 15,5%.

1.2.4 With reference to the abovementioned finding by the Unit, the Vice-Chancellor stated in a letter dated 16

February 2000 that he was prepared in principle and without prejudice, to repay the balance until the total amount had been paid in full. It is a trite observation that the Vice-Chancellor did not admit liability in this instance and, accordingly, reserved his right to invoke his legal remedies. Of course he would have been rightly advised that anything that did not fall within conditions (a) and (b) of the use of the card, then the University had to be refunded.

2. **AD TERMS OF REFERENCE AND SCOPE OF INVESTIGATION:**

2.1 The terms of reference of the Special Committee with regard to the credit card are, *ipsissimis verbis*:

(a) The Committee should establish whether the Vice-Chancellor used the card outside the terms of reference laid down by the Council of the University;

(b) The Committee should establish whether the Vice-Chancellor acted outside the agreement entered into with Council;

(c) The Committee should establish whether there was any accounting irregularities by the Vice-Chancellor;

(d) The Committee should establish whether the Vice-Chancellor used the credit card in an unauthorised manner, and if so, to what extent;

(e) The Committee should establish whether the Vice-Chancellor used the credit card in an improper and/or irregular way, and if so, to what extent.

2.2 To be able to deal with the terms of reference as set out above, the Committee deems it necessary to briefly and concisely sketch out the reasons for the allocation of the credit card and conditions for its utilization.

3. **ALLOCATION OF THE CREDIT CARD AND CONDITIONS ATTACHED TO ITS UTILIZATION:**

3.1 From the outset, it must be stated that the Special Committee is not requested to investigate the legitimacy of the acquisition

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YUNIBESITHI YA PRETORIA



of the credit card by the Vice-Chancellor. If there be anything at all, *ex facie*, the terms of reference, it is clear that the University Council moved from the premise that the Vice-Chancellor has been properly furnished with the credit card. It is necessary to state this as we received submission from University community structures that, *inter alia*, strongly challenged the manner in which the Vice-Chancellor had acquired the card. This we considered to be outside our terms of reference and, accordingly it has played no part in our deliberations. Be that as it may, it is apposite to mention in passing that documentation supplied to us reveals that on or about 3 April 1995, the University of Venda through the Professor authorized the University to apply for a Master Card with a limit of R150 000,00. Furthermore, the minutes of meeting of the Executive Council held on 4 May 1996, p 6 indicate that the Executive Council approved of the application.

3.2 The evidence we found most compeling and helpful in this regard, came primarily from the Department of Finance. In a memorandum dated 21 June 1995 from the Acting Registrar Finance, Mr D Malima, to the Vice-Chancellor and principal. Mr Malima told us in evidence that the Department of Finance

set out to the professor the conditions of the use of his credit card. The relevant part of it reads as follows:

> "*Conditions for using the card:*
>
> *The card is intended to serve in the place of an advance cheque whereby any expenses incurred in the service of the University has to be accounted for by proof of supporting documentation. In the event of any expenditure incurred by the use of the card which does not fall within the ambit of the University services, you will have to make reimbursements out of your own pocket.*
>
> *Controls on the use of the cars:*
>
> *As a means of ensuring adherence to the proper financial controls, the bank will send statements of withdrawals on the card straight to the Registrar Finance who will require accountability from you by way of supporting documentation which will be reconciled monthly. This arrangement is in line with the petrol vehicle card system in use within the University.*"

3.2.1 The above conditions emanated from the decision of the Finance Committee at a meeting held on 20 June 1995, whereby the Committee resolved that the credit

card matter be dealt with and controlled under the financial rules and procedures of the University. In addition to that, the credit card matter was put before the Council's executive committee which approved of the application for an official credit card (Master Card), and also agreed that the matter need not be referred to Council.

3.3 In terms of the minutes of the Council of 2 December 1998, p 9, it is minuted that the Council approved the Committee's recommendation that the principal's credit card may be utilized for the following purposes:

(a) Official purposes;

(b) Emergencies relating to the business for the University;

(c) Purchases of anything other than (a) and (b) above must be refunded to the University in full.

3.4 We heard evidence from Mr Dennis Malima, now currently Director of Income, Department of Finance but Acting Registrar Finance then, that on the Vice-Chancellor's return,

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Senior Management met. At that time it comprised Dr Vera, Mr Matidza, Mr Ndzeru, Mr Karidzha and Mrs Fourie. It delegated to the Finance Department the whole issue of a credit card for the Vice-Chancellor. Sight should not be lost of the fact that the minutes of the Finance Committee's meeting held on 9 June 1995 stipulates that the Acting Registrar: Finance indicated that the matter relating to a Master Card for the Vice-Chancellor was brought to the Finance Committee for notification. However, on 6 October 1995, the matter was brought before Council for its attention and discussion. Mr Malima and Adv Lidhovo were in no doubt the Council were informed that the Vice-Chancellor already had the credit card. The primary issue was condition (c) as some members felt that it amounted to an interest free loan. However, it was agreed.

4. **AD THE VALIDITY OF THE ALLOCATION OF THE MASTER CARD:**

4.1 Although the Special Committee is not commissioned to opine the validity of the decision to issue the Master Card, the submissions referred to in paragraph 3.1 above have compelled the Special Committee to consider section 10(1) of the University of Venda (Private)Act, 1996 which provides that

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*"the Council ... may appoint one or more committees which shall subject to the directions of the Council ... perform functions of the Council ... that the Councill ... determines".*

4.2 Subsection (4) of section 10 provides that any decision taken by such a committee on the performance of any function assigned shall be presented for ratification to the Council at its first meeting after the decision was taken. Reference has already made to the decision that was taken by the Finance Committee (a creature of section 10). It is clear that this matter was not presented at the first meeting of Council after a decision was taken by that Committee on 5 May 1995. In this instance, there was non-compliance with the statutory provisions. However, it is our view that that is not fatal to the decision as the intention of the legislature was to ensure that decisions taken by committees appointed in terms of section 10 are presented before Council as the supreme and governing body of the University at the first practical opportunity after they had been thoroughly discussed and worked out by the Committee.

4.3 Thus it is our view that any decision taken by a committee appointed in terms of section 10 cannot be invalid simply

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because it has not been ratified by Council at its first meeting after decision was taken. Such a committee performs duties and functions which ought to have been performed by Council to ensure continuity in the running and administration of the University.

5. **AD THE HEARING OF *VIVA VOCE* EVIDENCE AND DOCUMENTARY EVIDENCE:**

5.1 In order to be able to deal with the terms of reference and attendant issues, the Committee invited both *viva voce* and documentary evidence. The Committee was supplied with the following documents, *inter alia*:

(a) The minutes of Council dated 6 October 1995;

(b) The minutes of the Finance Committee meeting of 20 June 1995;

(c) The memorandum from Mr D Malima dated 21 June 1995;

(d) External auditor's letter in respect of final audit for year

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ended 31 December 1996;

(e) Audit report on review of the Finance Department's records for the period 1 January to 31 October 1997;

(f) Heath Special Investigating Unit's documentation and annexures thereto;

(g) The extract of minutes of Council's meetings from 1995; to 1998;

(h) The University Act and Statutes, submissions from various university structures and organisations and *viva voce* evidence from students' representations, staff members and the Finance Department peculiarly.

5.2 The Committee confined its attention to documentary and *viva voce* evidence from the Finance Department and from the Vice-Chancellor, Prof Nkondo who was quite critical of the way the Finance Department was operating. Through their evidence, Committee established that the financial administration of the University left much to be desired.

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5.2.1 (i) It is common cause between the two that between 1995 and 1997 the Finance Department was not operating at optimum level. It had many problems. (See Council minutes 6th Oct 95 @ p 22 reiterating Council minutes of 9 December 1994 at p 12).

(ii) Mr Malima explained that amongst the causes of the problems was that the Department was switching from a manual system of recording to a computerised system and secondly, during this period only one person was entrusted with the task of reconciliation for all the departments which meant that there was a considerable amount of backlog;

(iii) It was not until August 1998 "that the procedures of payment of the credit card was now being properly controlled by the Finance Department". (See minutes of Audit Committee of 31st August 1998 para 6.1.1.2)

(iv) But in the meantime Mr Malima did recall that

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there were occasions when the principal would readily pay by cheque when asked to do so for those expenses that were private.

6. **AD THE AMOUNT OF THE MASTER CARD:**

6.1 Mr Malima told us in evidence that he discussed with the principal the limit on the credit card. It was initially agreed at R50 000,00, but changed to R150 000,00 as the principal maintained that a pound sterling was then worth about R3,00 and, since he was going to undertake extensive overseas travel, promoting the University and raising its profile, a R150 000,00 limit was more appropriate.

6.1.1 It is apposite to comment that even in 1995, a R150 000,00 credit card limit was too high as is subsequently born out by an analysis of his spending on the credit card when overseas. For example, on his first official trip to the USA after acquiring the card, expenditure on it amounted to R2 239,70 (1995); subsequent trips: Egypt R13 207,94 (1996); Malta R5 523,23 (1996); Singapore R4 840,12 (1996); Taiwan R7 452,89 (1997); Thailand R3 736,00 (1997);

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China and Hong Kong R21 314,22 (1997); Ivory Coast R1 549,78 (1996); USA R1 134,07 (1998). We remind ourselves that these expenses would include those of his spouse as well, where she accompanied him. Paragraph G of the Agreement between the University and Vice-Chancellor dated 6 April 1994 reads:

> *"The University hereby agrees to pay all expenses incurred by the spouse of the principal on official business trips."*

6.1.2 However, it should be noted that on the renewal of the credit card in April 1996, the limit was reduced to R50 000,00. We were not told at whose initiative this was done.

6.1.3 Furthermore, the Special Committee found from the list consisting of all trips that the Vice-Chancellor undertook for the period 1995 to 1998, he only claimed S & T for the overseas trips and never claimed S & T for the local trips. From documentary and *viva voce* evidence, the Special Committee established that the amount the Vice-Chancellor should have claimed for S

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& T on all the trips in South Africa, totalled R77 825,00. The Vice-Chancellor had not claimed the said amount.

6.2 In addition to that, in accordance with Coopers and Lybrand's report dated 4 December 1997, it was found that R33 555,97 comprised of official expenditures and R16 793,29 comprised private expenditure. Mr Malima's testimony on this was that when approached the Vice-Chancellor for payment of this amount of R16 793,29 as private expenditure, he readily made out a cheque in the said amount.

[6.3] The Committee had the opportunity of listening to the evidence of a team of individuals from the Department of Finance led by their director, John Madzhie, including Mr D M Malima. Their evidence purported to explain that there was no proper authorization of the Master Card by Council. This aspect has already been dealt with elsewhere in this resport and it is the Committee's view that such argument is untenable, given the explanation already outlined above.

6.4 We are therefore able to conclude from the evidence we have heard that the Vice-Chancellor did not use the card outside the terms of reference as laid down by Council of the

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University, nor did he act outside the agreement entered into with the Council.

7. We now turn to consider whether there were "*any accounting irregularities by the Vice-Chancellor*" in the use of the credit card.

7.1 In this regard the Special Committee was greatly assisted by the evidence of Mrs D Nembudani as to what constituted "*accounting irregularities*" in auditing. She is the internal auditor at UNIVEN having commenced her employment there on 1 March 1999 so she had no dealings with this credit card issue.

7.1.1 Her evidence was that the professional literature distinguishes between two types of misstatements; errors and irregularities. An error being an unintentional misstatement of the financial statements, and an irregularity being intentional, so that the latter would amount either to theft of assets or fraudulent financial reporting. This will involve the following:

Manipulation, falsification or alteration of records or documents;

Misappropriation of assets;

Suppression or omission of the effects of transactions from records or documents;

Recording of transactions without substance;

Misapplication of accounting policies.

7.2 We have found no evidence of theft of monies from the credit card or fraudulent financial reporting by the Vice-Chancellor.

7.2.1 By this we mean that there is no record of the Vice-Chancellor claiming that a "*private spending on the credit card was in fact official*". Indeed Mr Malima was frank in admitting that there was no evidence that he had ever claimed what he was not entitled to. Secondly, he said there was no evidence of dishonest use of the card or of "*wild spending by the Vice-Chancellor*".

8. With reference to the fourth and fifth terms of reference, the Committee found to a great extent a measure of duplication. It is the Committee's finding that the card was properly issued and authorised for utilization by the University senior management and Council. In the event of utilization of the card by the Vice-Chancellor for activities other than official activities, the Vice-Chancellor was not prohibited

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from doing so but had to reimburse the University subsequently. In that context, the Committee finds no basis upon which it can be argued that there was an unauthorized utilization of the card, nor any irregular and/or improper usage (meaning wrongful) by the Vice-Chancellor.

8.1 It should be noted that we have not considered it necesary to consider each item of expenditure reflected in the credit card statement. That would be a fruitless exercise as those expenditures which Prof Nkondo had not been able to substantiate as official, fall to be determined as private and accordingly have to be repaid to the University.

9. **AD THE FINDING OF THE SPECIAL COMMITTEE RE TERMS OF REFERENCE:**

9.1 Having regard to the oral and documentary evidence, analysis of the facts and attendant circumstances, the Committee finds as follows:

(a) That the Vice-Chancellor did not use the card outside the terms and conditions laid down by the Council of the University.

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YUNIBESITHI YA PRETORIA



(b) That the Vice-Chancellor did not act outside the agreement entered into with the Council.

(c) That there was no accounting irregularity by the Vice-Chancellor.

(d) That the Vice-Chancellor did not use the credit card in an unauthorised manner.

(e) That the Vice-Chancellor did not use the credit card in an improper and/or irregular way.

10. **RECOMMENDATIONS:**

10.1 It is right that the Vice-Chancellor and Principal of a university should have the facilities of a credit card. We, however, recommend that the limit in this instance should be R30 000,00, given the recent rapid depreciation of the Rand vis-à-vis the US Dollar and Pound Sterling and also of the provisions of paragraph G of the Memorandum of Agreement between the University and the Vice-Chancellor and Principal dated 10 February 1999 which provides:

*"The University hereby agrees to pay for transport, accommodation and subsistence expenses incurred by the spouse of the Principal when she accompanies the Principal on official business trips, provided that the rates shall be similar to those applicable to the Principal, and provided that the Principal's spouse may only accompany him on two official overseas university visits a year."*

10.2 It should be used solely and exclusively for university purposes only on official business trips.

10.3 It should be obligatory on the part of the Vice-Chancellor and Principal to furnish the Department of Finance with all the credit card transaction vouchers and/or receipts immediately on return and/or completion of each official trip.

10.4 In the light of our findings, we are of the view that there is no basis on which the Council could institute disciplinary proceedings against the Vice-Chancellor and Principal.

DATED at PRETORIA on this the 23rd day of MAY 2000.

**PROF E T MOKGOKONG**
Chairperson

**ADV D S KUMALO**
Committee Member

**ADV K KEKANA**
**Committee Member**

Annexure "16 "

# UNIVERSITY OF VENDA
# for SCIENCE AND TECHNOLOGY
# MEMORANDUM

TO : THE CHAIRPERSON OF COUNCIL

FROM : LEGAL ADVISOR TO THE VICE CHANCELLOR AND PRINCIPAL

DATE : 20th SEPTEMBER 2004

**RE : IRREGULAR PAYMENTS OF R4 423 058-64 MADE BY THE UNIVERSITY TO KAGISO KHULANI SUPERVISION FOOD SERVICES**

**BACKGROUND**

On Friday 17 September 2004 you instructed me to write a detailed report on the above payments and send it to your office as soon as is practically possible. I confirmed to you that the Secretary to Council Mr K C Nemadzivhanani had already indicated to me that the Executive Committee of Council has taken a resolution that I should submit same, for the attention of Council. You also impressed on me to clarify the question of who, within the University, was accountable for such irregular payments.

**HISTORICAL BACKGROUND**

1. In 1996 the University entered into a catering agreement with Kagiso Khulani Supervision Food Services, in terms of which the University had *inter alia* to pay a monthly operational fee of R65 143-00. The reason for this fee was because Kagiso Khulani were to swallow all the employees previously employed by the University, and the University felt the need to help out in this regard.

2. The initial agreement was for a period of three (3) years and was re-negotiated in 1999. It was during the second agreement, that the operational fee was negotiated out of the

contract. I was part of those negotiations. On 5 May 1999 a new agreement was entered into with the service provider, without an operational fee.

3. This second contract ran its course until 2002 when a renewal agreement had to be negotiated with the service provider. It was during this period that my office noticed that the University had been paying the monthly operational fee to Kagiso Khulani Supervision Food Services despite the fact that the fee was not part of the catering agreement. The total amount paid in this regard is R4 423 058.64.

4. On 2 May 2003 I wrote a memorandum to the Vice Chancellor and Principal alerting him of these irregular payments, also advising him that the new agreement should not be signed until after the operational fee, which was mysteriously making a comeback, is looked into.

5. On 2 May 2003, the Vice Chancellor and Principal referred my memorandum in 4 above to Mr R J Madzhie, the Executive Director Financial Management and Planning to "please advise me". (See copy attached marked Annexure "A").

6. On 23 May 2003, my office was shocked when the Vice Chancellor and Principal received a memorandum from Mr R J Madzhie, the Executive Director Financial Management and Planning, recommending that the University should accept and continue to pay the operational fee. (See copy attached marked Annexure "B").

7. On 1 June 2003 the Vice Chancellor and Principal convened a meeting attended by Professors Ramogale and Thakhathi, Mr R J Madzhie and myself, where a decision was taken that the irregular payments to Kagiso Khulani Supervision Food Services should be stopped with immediate effect.

8. The decision in 7 above was communicated to Kagiso Khulani Supervision Food Services. It is common knowledge that Kagiso Khulani Supervision Food Services have since terminated their contract with the University and a new company has taken over. It was

surprising however to see them tendering for the same contract they terminated, when a new tender was advertised.

9. On 2 August 2004, the University received Summons from Kagiso Khulani Supervision Food Services claiming, *inter alia*, an amount of R867 363.44 plus interest. They allege that the University had tacitly and orally agreed to enter into a further agreement with them, which agreement also include an operational fee. This agreement they allege, was even amended at a later stage by a team led by Mr R J Madzhie, and still retained an operational fee.

10. On receiving the Summons, my office referred the claim to University local attorneys, Booyens, Du Preez and Boshoff Inc. to immediately defend the claim. We also instructed them to counterclaim the amount of R4 423 658.64 irregularly paid to Kagiso Khulani Supervision Food Services. Our attorneys have since briefed Adv. D Kumalo to conduct the litigation for the University.

**ACCOUNTABILITY**

1. It is not clear to my office who was in charge of budgeting, expenditure as well as the procurement division, when the irregular payments were started in April 1999. This is because of the reconfiguration/re-organisation that was taking place within the institution.

2. On 27 August 1999, Council approved that Mr R J Madzhie should take over the above responsibilities. On 1 September 1999, a letter was written to Mr R J Madzhie informing him that he is in charge of the above areas effectively from the same date, that is, 1st September 1999.

3. From 1st September 1999 to date, a total amount of R2 967 506-00 in irregular monthly fees was paid to Kagiso Khulani Supervision Food Services by the University. The amount was even increased in September 2002 from R90 972-00 to R107 346.96, until it stopped around June 2003. What surprised my office is that the last of these irregular payments

was paid out on 3 May 2003, a day after the Vice Chancellor had requested Mr R J Madzhie to advise him on the matter; which is also a day after I alerted the Vice Chancellor and Principal of these payments to Kagiso Khulani Supervision Food Services.

**OBSERVATIONS**

It is interesting to note the following observations / developments since the 2nd May 2003, when I alerted the office of the Vice Chancellor and Principal about these irregular payments.

1. These irregularities were never investigated by the office of the Vice Chancellor and Principal, as is normally the procedure with other cases, even where negligible amounts are involved.

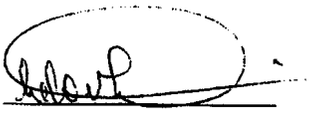
2. On 6 September 2004, Mr R J Madzie, as a reaction to my persistence on this matter, suddenly came up with false "thumb sucked" allegations against me, relating to my travel and subsistence claims. This was an attempt to distract my focus and attention.

   I was surprised when the Vice Chancellor and Principal called me to his office to inform me that he is initiating an investigation against me based on these baseless allegations. When I asked him what he is doing about the irregular payments to Kagiso Khulani Supervision Food Services, his response was "I cannot investigate that because there is no complaint before me". He went on to say that the matter is in anyway, being attended to by my office, and Adv. D Kumalo. I explained to him that Adv. Kumalo is not investigating any impropriety in this matter, but only conducting litigation on behalf of the University.

3. I left the Vice Chancellor and Principal's Office, whereafter he came to my office to inform me that he has decided to investigate Mr R J Madzhie. I do not know until today, how far the said investigation has gone.

**RECOMMENDATIONS**

It is recommended, in view of the above observations, that Council takes it upon itself to investigate and finalise this matter.



Adv. M N Lidovho
Legal Advisor to the Vice Chancellor and Principal

cc. Secretary to Council
Vice Chancellor and Principal

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"A"

# UNIVERSITY OF VENDA FOR SCIENCE AND TECHNOLOGY

## MEMORANDUM

RECEIVED
OFFICE OF THE VICE-CHAN... AND PRINCIPAL
2003 -05- 02
COPY FOR YOUR ATTENTION/INFO
Ms Madalane

**TO** : **The Vice Chancellor and Principal**

**FROM** : **Office of the Legal Adviser**

**DATE** : **02 May 2003**

Please see clause 4.6.2.

**DRAFT AGREEMENT: UNIVEN / KAGISO KHULANI SUPERVISION FOOD SERVICES AND MADNA BUSINESS ENTREPRISES**

The attached copies of the draft catering agreement between the above parties refers.

My office has a problem with clause 4.6.2 where the University is required to pay a fixed monthly operational fee of R94 164,00 to the service providers. It has been confirmed that this amount was not agreed upon at the tender stage. It should also be noted that such a fee was not provided for in the previous agreement with Kagiso Khulani Supervision Food Services, but was nevertheless paid out to them.

**Recommendations**

It is recommended that the operational fee of R94 164,00 be looked into by the relevant committee before the agreement is signed.

.....

**Adv. M N LIDOVHO**
**Legal Adviser to the Vice Chancellor and Principal**

"B"

# MEMORANDUM

To : Prof G M Nkondo
Vice Chancellor & Principal

From : R J Madzhie
Executive Director Financial Management & Planning

Date : 23 May 2003

RE : DRAFT AGREEMENT: UNIVEN / KAGISO KHULANI SUPERVISION FOOD SERVICES

The attached memorandum has reference.

As requested, it is hereby recommended that the proposed operational fee of R94 164-00 be accepted.

Yours sincerely

R. J Madzhie
Executive Director Financial Management & Planning

RECEIVED
OFFICE OF THE VICE-CHANCELLOR
AND PRINCIPAL
2003 -05- 23
COPY FOR YOUR INFORMATION

23/5/03

Annexure "17"

OFFICE OF THE VICE-CHANCELLOR AND PRINCIPAL

25 June 2004

Ms Y Mogadime
Executive Director: CMIR
University of Venda
P/Bag x5050
THOHOYANDOU
0950

**BY HAND**

Madam

**RE: SUSPENSION PENDING THE FINALISATION OF YOUR DISCIPLINARY ENQUIRY**

Further to the above matter, kindly note that I have decided to institute a disciplinary enquiry in terms of the University of Venda Statute. This decision was taken by my office after the recommendations of the investigating committee which I appointed to investigate the operations of your directorate and in particular, several allegations against you as the Head of Department.

The investigating committee has recommended, and I have accepted that you should be called upon to answer to the following allegations:

(a) **Causes of delays by your Department in doing its assignments and failure to meet deadlines.**

(i) A request by Phalaphala F.M., through one Ms Lufu Madima, to use the University Hall, lay on your table until the date of the event expired.

(ii) A document from Kutama Sinthumule maximum prison on the Prison Project lay on your table for close to five (5) months without being attended to.

(iii) You repeatedly ignored instructions from my office given to you around September 2003, to finalise the matter pertaining to the appointment of Mr David Abbey. You even misled my office into believing that USAID was going to fund the appointment of the TELP co-ordinator, whereas this was not true.

(iv) There is no strategic direction and cohesion within the department as you don't call departmental meetings, save for one chaired by Prof. M Mzamane
who is not even a member of your department.

(v) You have been, since the departure of Ms Weyeni Tshivhenga, operating without a secretary, despite the fact that the post is available, and only need to be filled.

(vi) There is no effort from your side to finalise the appointment of a permanent radio station manager, since the resignation of Mr Masia. The implication is that the Station run the risk of loosing its licence as there is nobody who is accountable on the day to day management and monitoring of the activities of the radio station.

(vii) Your department has failed to produce the 2002 Annual Report which should have been published by 2003. Again there is no corporate brochure for the University.

(viii) There are also allegations that the University website and corporate video need to be updated, and there seems to be no urgency on your part to deal with these matters.

(b) **Tensions and conflicts within your Department and your inability to provide management and leadership to ensure delivery.**

(i) It is alleged that you would on occasions, not be willing to talk to your colleagues for weeks, claiming to be busy. In other occasions you would tell members of your department that you do not talk to junior employees. You even told Ms Nevhulamba that she is too junior to talk to the Vice-Chancellor and Principal.

(ii) You once told Ms P Mathonsi who is an acting station manager at Univen Radio that she is nothing, as she is a volunteer and not even an employee of the university.

(iii) Around June 2003, at a departmental meeting, Prof. Mbulelo Mzamane, to the surprise of members of your department, chaired the meeting even though he was not a member of your department.

(iv) Prof. Mbulelo Mzamane is alleged to have performed departmental work which you passed off as your product. A case in point is the document entitled "Access to Education and Training: An Imperative for poverty alleviation".

(v) During the strategic planning exercise, you were appointed to chair the Public Relations and Marketing Commission, but never chaired a single meeting. Instead Mr R Kharidzha chaired all the meetings of the commission.

(vi) Mr R Kharidzha was appointed to represent the University on the Tourism and Parks Board. After your appointment, you instructed Mr Kharidzha to attend only one of the scheduled meetings and apologise for all the other meetings.

(vii) Mr Kharidzha was also appointed by my office to the organising committee on linkages at Provincial level. You stopped Mr Kharidzha to attend the meetings but failed to attend them yourself.

(viii) You cancelled a media monitoring contract with NEWSCLIP who were contracted to monitor the news on behalf of the University, claiming that your secretary would do the monitoring.

(ix) You cancelled annual general meetings of the Univen Radio Board Scheduled for December 2003 and February 2004 without valid reasons and in violation of regulations by ICASA.

(x) You appointed Mr Charles Van Niekerk on a consultancy basis to prepare for the renewal of the Univen Radio Licence outside University Services procurement policy, and despite the fact that there is enough capacity within the institution to do the job.

(c) **Rate of Absenteeism**

(i) It is alleged that you spend much of your official time outside the University. In fact it was submitted that you would check my itinerary so that when I am out of campus you would absent yourself from your office and then hurry back when I return.

(ii) You would, on occasions, spend close to two (2) weeks without reporting for duty and your secretary not knowing your whereabouts.

(iii) For a period of three (3) weeks before the September 2003 graduation, you were absent from campus under the pretext that you are making graduation arrangements with the Guest Speaker Dr Magubani. Again for a week immediately after the graduation ceremony, you were absent on "Sick leave" without completion of the necessary sick leave forms.

(iv) You once claimed to be attending a TELP workshop for Deans and Executive Directors in Mafikeng, whilst you were not there.

(d) **Your Level of Communication and Command of Written English Language**

(i) Your level of English written communication is below that required of a person at your level of employment. Your memorandum to my office dated 23 April 2004 entitled "Drafting Proposal for the National Skills Development Fund: Delegated assignment from Council to CMIR" is a case in point. Another memorandum to my office dated 23 February 2004 entitled "CMIR work and working Relationships" is another case in point.

(ii) A memorandum to Prof. Herbert Vilakazi dated 13 April 2004. Entitled "Request to be Univen Graduation keynote Speaker. May 08 and 07 2004" is another case. A well written letter to Prof. Vilakazi could have been sent in this regard.

(e) **Interpersonal Relationships: Stakeholders and members of Public**

(i) The SABC once visited the University with a view to obtain a report on enrolments. Prof. S Mahoko referred them to your office for an interview. When they arrived, you chased them out of the office as they did not make an appointment.

(ii) There is a lady from UNISA who was waiting in Mr Kharidzha's office on a business appointment. You screamed to the lady telling her to get out of the office as it was not a resting place for visitors.

(iii) You don't respond to calls, including international ones. A case in point is that of Dr Woo who called your office several times from Britain. You would not take his call until he threatened to report you to my office.

(iv) The Chairperson of Council Justice Y Mokgoro was once "kicked out" of the flight which was booked by your Department to fly her to Pietersburg for a graduation ceremony on campus. The reason given by the airline was that her bookings were not properly arranged by your department.

(v) You more often scream at your secretaries from your office instead of communicating with them through the phone. This according to them was being treated like little children, and it left them demoralised.

You are hereby given a period of five (5) working days to show cause why you should not be suspended from duty pending the finalisation of your disciplinary enquiry. The main reason for your suspension would be because of the seriousness of the allegations against you and also to prevent you from interfering with witnesses, some of whom are junior employees in your department.

Prof. G M Nkondo
Vice-Chancellor & Principal

Original copy hereof received by me on this the June Day of 25 2004.

Ms Y Mogadime