



Tel: +27(12)432 1300  
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National Lotteries Commission (NLC)  
P.O Box 1556  
Brooklyn Square 0083, Pretoria

13 December 2022

Mr Marubini Ramatsekisa

Chief Risk Officer

**National Lotteries Commission**

Email: Livingstonerama@gmail.com

## **NOTICE OF DISCIPLINARY HEARING**

- 1 Kindly be informed that you are hereby called upon to –
  - 1.1 answer the charges of misconduct against you, as set out in annexure “A” attached. In this regard, you are required to plead to the charges, and in respect of matters in dispute, to make submissions and present documentary evidence in support thereof;
  - 1.2 attend a hearing, and to give evidence and make oral submissions, in relation to the charges.
- 2 We confirm that together with this notice and the charges of misconduct, we have delivered to you the employer’s bundle of documents.

The arrangements for the disciplinary hearing will be as follows:

3 **On 21 December 2022**, you are required to attend a virtual hearing which will be chaired by an advocate from the Johannesburg Bar. The details of the chairperson and the link to the virtual hearing will be provided to you in due course. The further details of the hearing will be as follows:

3.1 Time: the hearing will begin at 14h00.

3.2 Venue: Virtual hearing, via Microsoft teams.

Legal representation at the disciplinary hearing and expeditious completion of the process

4 In terms of item 5.2.4.3 of the NLC's Disciplinary Policy, the NLC approves the right for you to be legally represented in the hearing, at your own cost.

5 The NLC will be represented at the hearing by an external legal practitioner.

6 In the event that you choose to be legally represented, you will be required to ensure that:

6.1 the matter is dealt with quickly and expeditiously, and that your legal representative is generally available to represent you on that basis;

6.2 if your legal representative is not available on such further dates as determined by the chairperson, you will be required to obtain the assistance of another legal representative who is available on those dates.



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## The charges

- 7 The charges which you will be called to answer to at the enquiry appear in the charge sheet annexed hereto as “**Annexure A**”. Please be advised that the NLC considers the charges against you to be grave and destructive of the working relationship between it and yourself. Subject of course to the findings of the Chairperson, the NLC intends to move for your summary dismissal in the event of a finding of guilt in respect of one or more of the charges. In the event that you are found guilty of the charge(s), you will be required to present factors in mitigation, to be considered by the Chairperson in deciding on the appropriate sanction.

## Supplementation

- 8 You are advised that the investigations into financial misconduct and improprieties at the NLC are still ongoing. The NLC reserves its right to revise and supplement the charges against you, and the bundle of documents upon which it will rely, accordingly. Should the NLC exercise that right, you will be informed thereof timeously.

Yours faithfully

Ms Tintswalo Nkuna  
Acting Commissioner  
**National Lotteries Commission**



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**I, Marubini Ramatsekisa, hereby confirm receipt of the notice of the disciplinary hearing, charge sheet and bundle of documents on \_\_\_\_ December 2022.**

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**M Ramatsekisa**

## ANNEXURE A – CHARGES OF MISCONDUCT

### Background to the charges

- 1 You were employed by the NLC in the following capacities, from April 2013:
  - 1.1 Enterprise Risk Specialist, with effect from 1 April 2013 to August 2017;
  - 1.2 Specialist: Grant Funding from August 2017 to January 2018;
  - 1.3 Grant Funding Projects Manager, from 1 February 2018 to December 2021;
  - 1.4 Chief Risk Officer, with effect from 1 January 2022.
- 2 In your capacity as an Enterprise Risk Specialist, you were required to:
  - 2.1 facilitate and coordinate the implementation of enterprise risk management through-out the NLC;
  - 2.2 facilitate the identification, assessment and monitoring of strategic, operational and project risks;
  - 2.3 develop enterprise risk management documents such as risk policy, framework, methodology and strategy that are aligned with legislation and best practice;
  - 2.4 review enterprise risk management documents such as risk policy, framework, methodology and strategy for alignment with legislation and best practice;

- 2.5 develop, implement and review risk systems and procedures for the identification, collection and analysis for risk related information;
  - 2.6 implement an overall risk management process for the NLC.
- 3 In your capacity as Specialist: Grant Funding, you were responsible for, amongst others:
- 3.1 the management of pro-active funding projects; and
  - 3.2 compiling and making recommendations pertaining to the funding, including drafting proposals for additional funding, for the completion of proactively funded projects.
- 4 In your position as Grant Funding Projects Manager, your responsibilities and expected deliverables included:
- 4.1 the overall direction, coordination, implementation, execution, control and completion of specific projects ensuring consistency with NLC strategy, commitments and goals;
  - 4.2 supporting the COO in ensuring that the overall divisional plans are set, executed and monitored, and in ensuring that organisational objectives are accomplished efficiently;
  - 4.3 the management of pro-actively funded projects implementation;
  - 4.4 the effective management of proactively funded projects to ensure that the NLC yields the envisaged return on the investment;

- 4.5 updating registers used for the monitoring of pro-active funding;
  - 4.6 the co-ordination and management of the compilation, review and reporting on operations performance including strategic and operational risks;
  - 4.7 ensuring that reports compiled are of a high quality and standard.
- 5 The NLC Ethics and Conduct Policy provides as follows, in clause 7.1:
- “NLC employees are expected to perform their duties conscientiously, honestly and in accordance with the best interests of the NLC and its stakeholders. NLC employees shall at all times conduct themselves in a manner that enhances the reputation of the NLC and shall avoid engaging in any activity that may undermine the integrity of the Commission ...”
- 6 In terms of section 45 of the Public Finance Management Act 1 of 1999 (“PFMA”), you are responsible for:
- (b) ... the effective, efficient, economical and transparent use of financial and other resources within [your] area of responsibility;
  - (c) [taking] effective and appropriate steps to prevent, within [your] area of responsibility, any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure...;  
...
  - (e) ... the management, including the safeguarding, of the assets and the management of the liabilities within [your] area of responsibility.”

## **Pro-active Funding Projects**

7 The NLC Pro-Active Funding Policy provides as follows, in the relevant parts:

“Two (2) modes of funding constitute the model, namely:

- i. Application-based funding; and
- ii. Proactive Funding

Both these funding modes shall be based on strategic planning and research.

Furthermore, both modes involve thorough monitoring and impact evaluation as a basis for learning lessons and demonstrating successes”<sup>1</sup>

8 Clause 6.2 of the Pro-Active Funding Policy provides that:

- The research agenda for pro-active funding shall be determined during the strategic planning of the NLC

...

- The research will amongst other[s] entail the following:
  - Need validation
  - Project scoping
  - Budget
  - ...

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<sup>1</sup> Clause 5 of the Policy.



- Impact assessment
  - Implementation of the said project...”
- 9 In February 2020, the NLC commissioned an investigation into allegations reported in the media, pertaining to the management of, amongst others, the proactive funding model provided for in section 2A of the Lotteries Act 57 of 1997.
- 10 The investigation, conducted by SkX Protiviti, was forensic in nature, and included the assessment of:
- 10.1 documents submitted by various Non-Profit Organisations which were awarded grants by the NLC;
  - 10.2 the records of the NLC; and
  - 10.3 the actual projects, which were assessed by visits to the relevant communities.
- 11 SkX also investigated various persons who were involved in the projects which fell within the scope of the investigation.
- 12 The SkX Report makes adverse findings against you, relating to your involvement in the management of the proactive funding model.
- 13 In addition, the NLC has independently identified instances at which you breached the provisions of NLC policies and procedures, as well as your duties and functions as Enterprise Risk Management Specialist and Grant Funding Projects Manager.



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## **INDIVIDUAL CHARGES**

### **Charge 1 – Failure to develop and implement Standard Operating Procedures for Proactively Funded Projects**

- 14 During the period in which you held the position of Specialist: Grant Funding, you failed to develop a Standard Operating Procedure (“SOP”) for the evaluation, approval and management of proactively funded projects. In the alternative, you failed to bring it to the attention of the Commissioner and/or the Board of the NLC, that no SOPs for the management of proactive funding projects was in place.
- 15 Your conduct as aforestated constitutes gross misconduct because you failed in your duty to safeguard the assets of the NLC or because it constitutes a gross dereliction of your functions and tasks.

### **Charge 2 – Dishonesty regarding your failure to develop and implement Standard Operating Procedures for Proactively Funded Projects**

- 16 In the Grant Funding Second Quarter 2017 Report dated 12 September 2017 (“the 2017 Grant Funding Report”), you stated that SOPs for all processes within the Grant Funding Value Chain had been developed and implemented. This information was false or dishonest as no SOPs had been introduced for proactive funding.
- 17 Your conduct as aforestated constitutes gross misconduct because you were dishonest.

### Charge 3 – Consequences for the failure to introduce SOPs

18 As a consequence of the absence of the SOP and/ or the gross dereliction of your duties -

18.1 there was a failure to properly interrogate applications for funding and the composition and business records of organisations receiving funding were not scrutinised;

18.2 there was inadequate monitoring of the implementation of pro-actively funded projects;

18.3 additional tranche payments were made to beneficiaries that had not complied with the relevant grant agreements; and/or

18.4 funding was paid to beneficiary organisations without their having provided detailed breakdowns on their budgets.

19 For example:

19.1 the NLC made payment of R10 000 000 to Zibsifusion NPC (“Zibsifusion”) and R10 000 000 to Dinosys NPC (“Dinosys”), in circumstances where:

19.1.1 there was no cost breakdown for the expenditure to be spent on each of the projects, and the amount of R10 000 000 was recommended for each of the projects in the Eastern Cape and Limpopo only because funds were available;

19.1.2 there was no recorded process followed in the appointment of Dinosys and Zibsifusion;

19.1.3 the rationale for the R10 000 000 allocated to Dinosys and Zibsifusion was not recorded in the respective proposals for proactive funding in Limpopo and Eastern Cape; and

19.1.4 the number of schools to benefit from the proactive grant funding was not recorded in the proposals;

19.2 The NLC also made payment of R23 000 000 to Matieni Community Centre (“Matieni”) for the construction of an old age home in Marapyane. As a result of your failure to ensure the development of SOPs for the effective management of the proactive funding project -

19.2.1 the construction of the old age home by Matieni in Marapyane remains incomplete;

19.2.2 the R23 000 000 paid to Matieni is unaccounted for; and/or

19.2.3 the NLC has not monitored the progress made by Matieni in the construction of the old age home.

19.3 In addition, the NLC entered into a grant agreement with, and made payment of R23 000 000 to Lethabong Old Age Home (“Lethabong”) for the construction of an old age home. The final tranche payment to Lethabong was made in March 2019. On 24 April 2019, Lethabong applied for a variation to the agreement and sought additional funding

to the value of R 3 825 063.16, and addressed the application to you in your capacity as Grant Funding Projects Manager. The request was approved, and an addendum to the grant agreement was communicated to Lethabong on 21 May 2019. Despite this:

19.3.1 as at June 2020, the construction of the old age home had not been completed; and

19.3.2 the uncompleted works are estimated to be in the value of R9 390 632.34.

20 Your conduct as aforesaid amounts to gross misconduct for one or more of the following reasons:

20.1 it amounts to the flagrant and repetitive dereliction of your duties as the Grant Funding Projects Manager;

20.2 it resulted in the incurrence of fruitless and wasteful expenditure as defined in the PFMA;

20.3 you acted against the interests or to the detriment of the NLC;

20.4 you refused or failed to safeguard the assets and property of the NLC;

20.5 it constitutes an abuse of your position as Grant Funding Projects Manager.

**Charge 4 – Management of the Proactive Funding Project for the Construction of Ablution Facilities at rural schools in Eastern Cape and Limpopo**

21 You failed in your duty to ensure the economical use of, and to safeguard the assets of the NLC in your management of the proactive funding projects relating to the construction of ablution facilities at rural schools in the Eastern Cape and Limpopo, in that:

21.1 you inappropriately prepared a research document to justify the projects alternatively failed to ensure that adequate research was undertaken in respect of the projects;

21.2 you compiled the submissions for and recommended the approval of proactive funding in the amount of R10 000 000 for projects without interrogation or justification;

21.3 you recommended the payment of grants for these projects, despite material discrepancies in the applications lodged by Dinosys and Zibsifusion, such as:

21.3.1 both applications were received by the NLC on 23 October 2018;

21.3.2 the descriptions provided for the “main purpose” of the two entities, required in paragraph A14 of the application form, were exactly the same;

21.3.3 the descriptions of the nature of services rendered by the organisation, required in paragraph A16 of the application form, were exactly the same;

21.3.4 the details of the staff composition of the organisations, provided in paragraph A18 of the application form, were exactly the same;

21.3.5 under paragraph B5, the detail of groups of people to benefit from the project is exactly the same in respect of both applications;

21.3.6 notwithstanding the fact that the projects were to be implemented in the Eastern Cape and Limpopo, the details of the referees provided in both applications were exactly the same;

21.3.7 Mr Tsietsi Tshabalala was listed as Treasurer in the application lodged by Dinosys; and as Secretary in the application lodged by Zibsifusion;

21.3.8 the financial statements submitted by Dinosys for the year ended 28 February 2018 reflected a share capital, yet the organisation carried itself out as an NPC in the application lodged with the NLC.

22 Your conduct as aforestated constitutes gross misconduct for one or more of the following reasons:

22.1 it amounts to a reckless dereliction of your duties;

22.2 it resulted in the incurrence of fruitless and wasteful expenditure as defined in the PFMA;

22.3 you acted against the interests or to the detriment of the NLC;

22.4 you refused or failed to safeguard the assets and property of the NLC;

22.5 you facilitated the use of NLC property and assets for illicit purposes.

## **Charge 5 – Management of the Proactively Funded Project – Lethabong Old Age Home**

23 In this matter:

23.1 Lethabong Old Age Home completed an application for a grant in September 2017, for an amount of R20 036 472.18 aimed at the establishment of “home based and centred care services to the rural and farm community around Northern Cape”;

23.2 in the application, Lethabong recorded that the funds requested were for a period of 4 months;

23.3 in terms of the Grant Agreement concluded between the NLC and Lethabong, four tranches of payment were to be made to Lethabong. The first tranche of payment was to be in the amount of R20 000 000 (twenty million rands);

23.4 in terms of clause 4.1.1 of the Agreement:



“Any payments after Tranche 1 or any other subsequent payments, where applicable, shall only be made on receipt of satisfactory progress reports.”

23.5 the first tranche payment was made in October 2017;

23.6 the second, third and fourth tranche payments were made to Lethabong in February and March 2019. However, as at 9 June 2020, the construction of the facility had not been completed, no progress reports were received and no value was derived from the grant, by the local community of Heiso.

23.7 Lethabong applied for additional funding in the amount of R3 825 063.16, which was approved in May 2019.

24 In the circumstances of this matter, you failed to monitor alternatively ensure that the project was monitored, that progress reports were received, and that further tranche payments or additional funding was justified. Your conduct as aforestated amount to gross misconduct for one or more of the following reasons

–

24.1 it amounts to the flagrant and repetitive dereliction of your duties;

24.2 it resulted in the incurrence of fruitless and wasteful expenditure as defined in the PFMA;

24.3 you acted against the interests or to the detriment of the NLC;

24.4 you refused or failed to ensure the economical use of or to safeguard the assets and property of the NLC;

24.5 you facilitated the use of NLC property and assets for illicit purposes.

## **Charge 6 – Management of Proactively Funded Project – Matieni Community Centre Old Age Home**

25 You failed in your duty to safeguard the assets of the NLC, in that:

25.1 on 6 September 2017, Matieni Community Centre (“Matieni”) lodged an application for grant funding in the amount of R20 183 704.00;

25.2 on 13 September 2017, you motivated for the allocation of R23 000 000 to Matieni. In this regard, you failed to identify significant similarities between the proposals submitted by Matieni and Lethabong Old Age Home, such as:

25.2.1 the Executive Summaries in both proposals, which barring the difference in the names of the entities, were exactly the same;

25.2.2 the organisational background, vision and mission of the two different entities;

25.2.3 the proposed project target and programme impact submitted by the two entities, which is exactly the same; and

25.2.4 the funds requested for the construction of the facilities by the two entities, as set out in their proposals, was exactly the same – R20 183 704.18.

25.2.5 despite these similarities in the two proposals, you motivated for the allocation of R23 000 000 to Matieni, without interrogation.

25.3 the costing set out in the proposal submitted by Matieni is different from the costing in the projected budget submitted by the same entity. Despite this discrepancy, you motivated for the allocation of R23 000 000 to the entity.

26 You conduct as aforestated amounts to gross misconduct for one or more of the following reasons:

26.1 it amounts to the flagrant dereliction of your duties;

26.2 it resulted in the incurrence of fruitless and wasteful expenditure as defined in the PFMA;

26.3 you acted against the interests or to the detriment of the NLC;

26.4 you refused or failed to ensure the economical of or to safeguard the assets and property of the NLC;

26.5 you facilitated the use of NLC property and assets for illicit purposes.

**Charge 7 – Management of Proactively Funded Project: Elderly Female Citizens’ Soccer Tournament in Ba-Phalaborwa, Limpopo**

27 In this matter you conducted research, which was not in compliance with the 2017 Pro-Active Funding Policy, on the proposal to be submitted by Zibsimanzi

and failed to adequately assess and evaluate the application lodged by the entity prior to its adjudication.

- 28 In addition, you failed amongst other things to verify the details provided in the application before adjudicating in favour of the entity. In this regard you failed to detect that –

28.1 Rebotile Malomane, Themba Mabundza and Judith Mashaba were only appointed as directors of Zibsimanzi on 4 May 2017, and therefore could not have been signatories to the Memorandum of Incorporation dated 17 November 2015;

28.2 Rebotile Malomane had a close personal relationship with Mr Philemon Letwaba;

28.3 Themba Mabundza was a business associate and/or business partner of Philemon Letwaba.

- 29 Consequently, you committed gross misconduct for one or more of the following reasons:

29.1 Your conduct constitutes a gross dereliction of your duties;

29.2 you failed to avert the risk of the NLC disbursing grants to a fraudulent entity;

29.3 you acted against the interests and to the detriment of the NLC



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29.4 you failed in your obligation to safeguard the property and assets of the  
NLC.