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National Lotteries Commission (NLC)
P.O Box 1556
Brooklyn Square 0083, Pretoria

12 July 2023

Mr. Marubini Ramatsekisa
Chief Risk Officer
National Lotteries Commission

Dear Mr. Ramatsekisa

We set out below the following additional and supplementary charges against you.

SUPPLEMENTARY CHARGES OF MISCONDUCT

BACKGROUND TO THE CHARGES

The Special Investigating Unit ("SIU") is, in the course of its investigation as per Proclamation 32 of 2020, investigating acts of serious maladministration in connection with the affairs of the NLC, as well as improper and unlawful conduct by employees or officials of the NLC.

In carrying out this mandate, the SIU is investigating acts of alleged impropriety in relation to the allocation of proactive grant funding to –

- Zibsilor NPC for the funding of a drug rehabilitation centre in Soshanguve, Pretoria;
- Zibsicraft NPC for purposes of conducting a study to assist in the development of the Khoi-San language; and



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- Uprising Youth Development for purposes of providing cricket sporting development and training in the Northern Cape.

The investigations conducted by the SIU demonstrate, prima facie, that you have committed acts of misconduct in the management of these projects, as Specialist: Grant Funding and Grant Funding Projects Manager.

In this regard, the National Lotteries Commission ("NLC") has received a recommendation from the SIU that disciplinary proceedings be instituted against you for your conduct as detailed below.

The NLC has considered the evidence provided by the SIU and has decided to supplement the disciplinary charges levelled against you with additional charges based on the evidence gathered from the SIU.

In addition, certain irregularities in relation to the management of the COVID-19 Relief Programme have come to the NLC's attention, and in particular, that you issued instructions that you were not authorised to issue in respect of the management of that programme.



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CHARGES 8 AND 9: MANAGEMENT OF THE PROACTIVELY FUNDED PROJECT – CONSTRUCTION AND MANAGEMENT OF THE DRUG AND REHABILITATION CENTRE IN SOSHANGUVE, PRETORIA.

Background to Charges 8 and 9

- 1 In July 2017, the NLC awarded Zibsilor NPC (“Zibsilor”) R23 877 838 in proactive funding, for the construction and management of a Drug and Rehabilitation Centre in Soshanguve, Pretoria (“*the Drug Centre*” or “*the Project*”).
- 2 The NLC received interim progress reports in relation to *the Project* from Zibsilor on 31 August 2017 and 15 January 2018, as well as a final report on 28 May 2018.
- 3 The progress reports from Zibsilor recorded that substantial progress had been made in relation to the provision of infrastructure and facilities for *the Drug Centre*. In particular, the interim progress report dated 15 January 2018 recorded that the building of *the Drug Centre* was “on superstructure level”.
- 4 In April, May and July 2018, you received quality assurance and visual reports from SRSQ Quantity Surveyors (“SRSQ Report”), indicating that, contrary to the interim reports received from Zibsilor, various phases in the construction of *the Drug Centre* – including construction of the floor level and the ground floor to window level - had not yet started.
- 5 In particular, the May 2018 SRSQ Report contradicted the final report received from Zibsilor, which indicated that the construction of *the Drug Centre* had been



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completed. In May 2018, you held the position of Grant Funding Projects Manager.

- 6 The SIU has also determined that *Zibsilor* inflated the purchase price of the site. The interim progress reports submitted by *Zibsilor* each stipulate different amounts spent in the purchase of the site.
- 7 To this date, *the Drug Centre* in Soshanguve is not operational and is not providing the services specified in the Application.

Your conduct, and its consequences

- 8 Despite having obtained independent progress reports from SRSQ, you failed *inter alia* –
- 8.1 to detect and/or to investigate the inconsistencies or misrepresentations in the progress reports submitted by *Zibsilor*;
- 8.2 to detect and/or investigate the inconsistencies between the progress reports submitted by *Zibsilor* and the SRSQ Reports; and
- 8.3 to investigate the progress, if any, made in the construction of *the Drug Centre*.
- 9 In consequence of your conduct –
- 9.1 *Zibsilor* and/or its officials were unjustifiably enriched;
- 9.2 the NLC and the community of Soshanguve have derived no benefit from the grant, and your conduct in this regard had the effect of subverting the



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objective of section 2A(3) of the Lotteries Act, for which you were primarily responsible.

Charge 8

10 Your conduct in this regard amounts to gross misconduct, for one or more of the following reasons -

- 10.1 you acted in gross dereliction of your duties;
- 10.2 you acted against the interests, or to the detriment, of the NLC;
- 10.3 you failed in your duty to safeguard the assets of the NLC;
- 10.4 you subverted the purpose and objectives of section 2A(3) of the Lotteries Act; and
- 10.5 you enabled the commission of corrupt or fraudulent activities against the NLC.

Charge 9

11 Despite the information contained in the reports referred to above, the following further awards were made to *Zibsilor*: (a) R4 948 559.71 in August 2018; and b) R2 939 717.11 in May 2019.

11.1 Your failure to advise against such further grants constitutes gross misconduct for one or more of the following reasons:

- 11.1.1 you acted in gross dereliction of your duties;



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- 11.1.2 you failed to safeguard the assets of the NLC;
- 11.1.3 you acted against the interests, or to the detriment of the NLC;
and
- 11.1.4 you enabled the commission of corrupt or fraudulent activities
against the NLC.

CHARGES 10 AND 11 – MANAGEMENT OF THE PROACTIVELY FUNDED PROJECT – STUDY IN THE DEVELOPMENT OF THE KHOI SAN LANGUAGE

Background

- 12 On 20 February 2019, you compiled a submission for the approval of grant funding in the amount of R4 000 000.00 for Zibsicraft NPC ("*Zibsicraft*"), aimed at conducting a study to assist in the development of the Khoi-San language. Your submission was approved by the then Acting Chief Operations Officer, Mr. Tsietsi Maselwa.
- 13 On 14 March 2019, there was a change to the directorship of *Zibsicraft*, in consequence of which:
 - 13.1 the following persons were added as directors –
 - 13.1.1 Phumudzo Neluheni;
 - 13.1.2 Rofhiwa Nematswerani; and



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- 13.1.3 Hulisani Sidogi; (collectively referred to as the “new directors”);
- 13.2 the following persons were removed as directors –
- 13.2.1 Adelle van Tonder; and
- 13.2.2 Kim Helene du Plessis.
- 14 Five days later, on 19 March 2019, First National Bank issued an account confirmation letter, which recorded that *Zibsicraft* held an account with the bank, from that date.
- 15 On 25 March 2019, the new directors completed and submitted an application form for a grant in terms of the Lotteries Act. The main purpose of the organisation, according to the application, was “community development”.
- 16 Although the new directors recorded in the application form that the organisation was based in the Northern Cape, the Companies and Intellectual Property Commission (“CIPC”) records of the entity reflected that it operated from 323 Lynwood Road, Menlo Park, Pretoria. This was corroborated by the Annual Financial Statements submitted by the organisation. In addition, the form was completed in Sunnyside, Pretoria, and the residential addresses of the directors – also recorded in the certificate issued by the CIPC – were in Gauteng and Limpopo.



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- 17 On 26 March 2019, TPP Consulting confirmed in writing that they were appointed as the “accounting officers and bookkeepers” of *Zibsicraft*, and that they had prepared its annual financial statements “for the period of 2018 and 2019”.
- 18 On 27 March 2019, two days after the completion of the application form, you compiled a document titled – Project M – M12753 – *Zibsicraft* NPC – Northern Cape – (“Project M document”) which you submitted to the Quality Assurance Committee, and in which you recorded that –
- 18.1 Mr. Bonakele Jacobs of the Department of Arts and Culture was consulted as a “key stakeholder”;
- 18.2 *Zibsicraft* had capacity to deliver, based on their submitted proposal;
- 18.3 two sets of financial statements had been provided and were attached to your assessment; and
- 18.4 the organisation was based in the Northern Cape province.
- 19 On the same date –27 March 2019 –
- 19.1 the NLC Pro-Active Funding Quality Assurance Committee met and resolved to allocate R4 000 000.00 to *Zibsicraft*, to be paid in one tranche;
- 19.2 the former Chief Operations Officer of the NLC, Mr. Phillemon Letwaba, informed *Zibsicraft* in writing that the NLC had allocated a total grant of R4 000 000.00 to them; and



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19.3 a grant agreement between the NLC and Zibsicraft was concluded.

20 A day later, on 28 March 2019, a payment of R4 000 000.00 was made to *Zibsicraft* by the NLC.

Charge 10

21 A basic assessment or investigation of the documents before you would have revealed *inter alia* that –

21.1 *Zibsicraft* was based or situated in Pretoria, and not in the Northern Cape;

21.2 *Zibsicraft's* bank account was opened on 19 March 2019, thus rendering the annual financial statements – purporting to have been conducted for the 2018 and 2019 financial years – irregular or fraudulent.

22 Your failure to conduct such an assessment constitutes gross misconduct because it amounts to a reckless or negligent dereliction of your duties.

Charge 11

23 The Project M document which you submitted to the Quality Assurance Committee, confirmed in the assessment sheet that the organisation was based in the Northern Cape, and that you had consulted Mr Bonakele Jacobs. One or more of these facts was incorrect, false or a misrepresentation.

24 Your conduct as aforesaid constitutes gross misconduct for the following reason:



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- 24.1 Your conduct constitutes a misrepresentation of the facts, was false and/or constituted dishonesty.

CHARGES 12 – 13: MANAGEMENT OF THE PROACTIVELY FUNDED PROJECT – DEVELOPMENT OF CRICKET IN THE NORTHERN CAPE

Background

- 25 On 16 November 2018, an organisation described as Uprising Youth Development signed an application for a grant to the NLC, in terms of the Lotteries Act.
- 26 The application form for grant funding, which was signed by the applicant's representative, Robert Munyai, recorded *inter alia* the following –
- 26.1 that the main purpose of the organisation was to “provide cricket sporting development and training to disadvantaged communities”;
- 26.2 in setting out the organisation's financial details, as required in the form, the organisation's bank account was opened and maintained at a bank branch located in Cresta, Johannesburg;
- 26.3 that the registration number of the organisation was: 153-198;
- 26.4 citing Mr Bonakele Jacobs of the Department of Arts and Culture in the Northern Cape as a referee; and
- 26.5 that the organisation requested funding in the amount of R5 500 000.00.



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- 27 The registration number provided by the organisation in the application form was invalid.
- 28 On 25 March 2019, the organisation purportedly addressed two letters to the NLC. The letters, although both dated 25 March 2019, had been placed on two different letterheads, and the name of the organisation was incorrectly spelt as “Upraising Youth Development” in both letters.
- 29 There were other irregularities in the letters –
- 29.1 the one letter indicated that the office-bearers had resolved to establish a new bank account with different signatories; and
- 29.2 the other indicated that the organisation was notifying the NLC that it had established sub-offices in other provinces without indicating which provinces.
- 30 On 26 March 2019, you compiled a proposal for proactive funding aimed at the development of cricket in the Northern Cape province, in which you recommended proactive funding for Uprising Youth Development in the amount of R5 500 000.00. Your submission was approved by the former Chief Operations Officer, Mr Philemon Letwaba on the same day.
- 31 The following day, on 27 March 2019, you compiled a document titled – “Project M12752 – Uprising Youth Development – Northern Cape” for submission to the Quality Assurance Committee. You recorded in the document that –



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- 31.1 Mr Bonakele Jacobs of the Department of Arts and Culture was consulted as a “key stakeholder”;
- 31.2 An amount of R4 500 000.00 was allocated to the organisation;
- 31.3 the organisation has the capacity to deliver on the project; and
- 31.4 two sets of financial statements from the organisation were attached to the document.
- 32 On the same day, Uprising Youth Development was advised in writing that its application had been considered and approved, and that the NLC had allocated a total grant of R5 500 000.00.
- 33 On 28 March 2019, a grant agreement was concluded between the NLC and Uprising Youth Development. You signed the agreement as a witness.
- 34 Mr Bonakele Jacobs, in an affidavit dated 5 March 2021, confirmed that he had not been consulted, as you claimed.

Charge 12

- 35 You failed to properly assess the application for a grant from Uprising Youth Development, including the irregularities associated with -
- 35.1 the two letters from the organisation, dated 25 March 2019, which had been placed on two different letterheads, and yet had the same contact and registration details;



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- 35.2 the fact that both letters incorrectly spelt the name of the organisation as “Upraising Youth Development;
- 35.3 the provision of an invalid organisation registration number; and/or
- 35.4 the precise location of the organization.
- 36 Your conduct as aforesated amounts to gross misconduct, for one or more of the following reasons:
- 36.1 you acted in gross dereliction of your functions and responsibilities;
- 36.2 you acted to the detriment of the NLC or against its interests;
- 36.3 you enabled the disbursement of funds to an unregistered organization that did not have the capacity to perform the activities specified in the proposal;
- 36.4 you enabled corrupt or fraudulent conduct.

Charge 13

- 37 The information contained in your “Project M12752 – Uprising Youth Development – Northern Cape” document was false, dishonest and/or amounted to a fraudulent misrepresentation.
- 38 You did not consult Mr Bonakele, and you did not substantiate on what basis you satisfied yourself that the organisation had the capacity to deliver on the project.



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

40 You were dishonest;

40.1 You intentionally misled the Quality Assurance Committee, with the information contained in your "Project M12752 – Uprising Youth Development – Northern Cape" document;

40.2 you acted against the interests of the NLC;

40.3 you enabled the disbursement of funds to an organization in fraudulent circumstances.;

40.4 you failed to safeguard the assets of the NLC.

CHARGE 14: COVID-19 RELIEF PROGRAMME

41 On 5 August 2020, you instructed provincial managers and their teams not to upload progress reports relating to the COVID-19 Relief Programme on the organisation's electronic system. You were not authorised to issue such an instruction. The effect of this instruction was *inter alia* to hinder the monitoring of the use of public funds in respect of this Programme.

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



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- 42.1 your instruction was in direct contradiction of the NLC's systems and procedures aimed at uploading such reports in the interests of transparency and accountability;
- 42.2 you acted beyond the remit of your powers, functions and responsibilities;
- 42.3 your conduct was in direct contravention of the PFMA's principles of transparency, accountability and sound management of the revenue, expenditure, assets and liabilities of institutions like the NLC;
- 42.4 you acted against the interest of the NLC.

GENERAL

- 43 The NLC reserves the right to further supplement the disciplinary charges levelled against you in the disciplinary hearing.

SIGNED AND DATED AT PRETORIA ON 14 JULY 2023

Ms Jodi-Lynne Scholtz
Commissioner: National Lotteries Commission

Received obo Mr Ramatsekisa on _____ by _____

Signature: _____