

Dear Ms Kabingesi

Thank you for your invitation to make myself available as a witness to the Committee's Enquiry into the affairs of the University of Venda(University) to be held on 4 September 2020 at 9h30.

I confirm my availability and willingness to appear before the Committee via the Virtual Online Platform to answer questions from members of the Committee. In so far as paragraphs 3(a), 8 and 9 of your letter under reply are concerned, I respond as follows:

1. On or about 2010 or 2011 I was appointed by the University of Venda in my capacity as a practicing attorney to mediate a sexual harassment complaint lodged by Professor against Professor Mbatl.

2. Mediation of a sexual harassment complaint is provided for and is in accordance with the Human Resources Policy(Policy) of the University.

3. After I had interviewed Professors Phendla and Mbatl the dispute remained unresolved and I accordingly prepared a report (First Report) and submitted it to the University regarding the non-resolution of the Dispute-I recommended to the University to invoke the next step provided by the Policy which includes the conducting of an investigation whose outcome may lead to the institution of a disciplinary hearing.

4. It is not clear to me whether the University conducted an investigation arising from Professor Phendla's complaint.

5. Some months later I received a Court order directing me to prepare a report containing my findings arising from the mediation. I complied with the Court order and prepared a report (Second Report) and forwarded it to the University. I prepared a detailed report and found that based on my interviews with Professors Phendla and Mbatl as well as documentary evidence provided by Professor Phendla that Professor Mbatl and Professor Phendla had a consensual sexual relationship.

6. To the best of my recollection, the Court order arose from an application brought by Professor Mbatl and/ the University to have certain adverse recommendations and/or findings contained in the Gender Commission's report expunged.

7. Subsequent to my Second Report, I received a telephone call and/or email from Professor Mbatl, he pleaded with me to amend or change my report regarding my finding that he had a sexual

relationship with Professor Phendla. I took strong exception to his request and accordingly refused to accede to his request.

8. Shortly afterwards, I was served with an application launched out of the Venda High Court to review and set aside my Second Report. I filed an explanatory affidavit to assist the Court in considering the matter and arranged for our correspondent in Venda to file in Court. I am not certain whether the affidavit was before the Court when it made the order to review and set aside the Second Report-to the best of my recollection Professor Phendla did not oppose the application due to a lack of funds.

9. It seems that the Court only issued an order without a written judgment. I wish to bring to the Committee's attention that I made this statement without the benefit of any document before me because the file in which all the information was kept was in accordance with the firm's then policy to archive files five years after a matter has been finalised and in the circumstances all the documents that would have assisted me to properly and comprehensively prepare my statement could not be found after a diligent search was conducted.

Be that as it may, the University of Venda and/or its attorneys (Bowman Gilfillan attorneys) should be in possession of my First and Second Reports. I suspect that Professor Phendla is also in possession of all the relevant documents pertaining to this matter including the First and Second Reports and my explanatory affidavit.

I hope I have gone a long way in being of assistance to the Committee
Should you have any queries please do not hesitate to contact me.

Regards

Lavery Modise
Consultant