



## **Should our public institutions be defending fraudulent conduct and perjury?**

**22 September 2015**

The SOS Coalition is alarmed by reports that the SABC has been paying the legal fees of Hlaudi Motsoeneng and Ellen Tshabalala to defend their wilful misrepresentation of their qualifications. Tshabalala resigned from the SABC Board in disgrace, last year, having been found guilty by the Portfolio Committee on Communications for misrepresenting her qualifications and perjuring herself in an elaborate con to fool the people of South Africa. Motsoeneng, on the other hand, was by his own admission found to have willfully misrepresented his matric qualifications by the Public Protector in her 2014 report [\*When Governance and Ethics Fail\*](#).

What is particularly alarming is that the stories told by the SABC GCEO, Frantz Matlala, and Minister of Communications, Faith Muthambi, don't seem to match up. When we made a PAIA application requesting all records relating to the payment of and/or resolution to pay any legal expenses relating to the allegations made against Tshabalala and Motsoeneng, in three sworn affidavits [\[1\]\[2\]\[3\]](#), Matlala confirmed, that the no such records existed because no such payments had been made owing to there being no such resolution passed by the Board or its committees. The Minister of Communications' replies [\[1\]\[2\]](#) to the DA's self-same parliamentary questions, on the other hand, seem to suggest that a decision (for which a record should

exist) was made for the SABC to finance the cost of defending this fraudulent conduct, albeit, indirectly through an insurance claim.

Two issues arise as a result of the Minister of Communications' revelations. Firstly, there appears to be a material contradiction in hers and Matlala's responses, which calls for clarification by them as to the truth of the claims they make. Further, they must outline who made and authorised the decision to finance these legal costs through an insurance claim, and on what basis. It is simply not enough to merely state that liability insurance exists, rather the reasons for which the apparent claim was made must be explained. Our public institutions must be truthful, credible and transparent, not least of which, our public broadcaster on which the overwhelming majority of our public rely for their information needs.

Secondly, and perhaps more importantly, we call on the Minister of Communications and the SABC to clarify to the public whether the cover offered by the Directors' and Officers' Liability Insurance taken out in keeping with King III and the Company's Act (as the Minister claims) extends to defending fraudulent misrepresentations made by its directors and officers against the SABC outside of the exercise their duties, as was the case with both Tshabalala and Motsoeneng. Further, we call on the Minister of Communications, who has repeatedly expressed her commitment to ensuring the SABC complies with the letter of the law, to confirm whether this decision was compliant with all relevant legislation and regulations including the Public Finance Management Act and Treasury Regulations.

In short, the Minister and SABC Board must tell us: should our public institutions be defending fraudulent conduct and perjury?

The SOS Coalition represents a broad spectrum of civil society stakeholders committed to the broadcasting of quality, diverse, citizen-orientated public-interest programming aligned to the goals of the SA Constitution. The Coalition includes a number of trade union federations including COSATU and FEDUSA, a number of independent unions including BEMAWU and MWASA;

independent film and TV production sector organisations including the South African Screen Federation (SASFED); a host of NGOs and CBOs including the Freedom of Expression Institute (FXI), Media Monitoring Africa (MMA), SECTION27 and a number of academics and freedom of expression activists.

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