# REPORT OF THE INDEPENDENT MEDIA OMBUD

# GAUTENG PANEL

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| **Complaint** | |
| Complaint number | 3 |
| Independent Media Publication | The Star |
| Journalist/s | Khaya Koko |
| Photographer |  |
| Complaint lodged by | Vivien Natasen / Neo Africa Solutions JV |
| Date complaint lodged | 08 June 2018 |
| Type of complaint | Misleading headline, misleading article and no right of reply |
| **Ruling** | |
| Date Ruling delivered | 29 July 2018 |
| Applicable version of the Independent Media Press Code | 2.1 & 3 |
| Clauses considered by the Ombud Panel | 2.1 & 3 |
| Related complaints considered | N/A |
| Sanction / Remedy | Apology to be published |
| Complaint fee | N/A |
| Is this report notable? | Yes |
| Summary of notability | Right of reply. |

1.The Complaint

* 1. On the 08th of June 2018 a complaint was submitted by Vivien Natasen, the Director of Neo Africa regarding a story that was published in the Star on Monday the 28th of May 2018 with the headline ‘*IRREGULAR TENDER HAS A WHIFF OF R3M GRAFT’*.
  2. Mr Natasen accused The Star of publishing a misleading headline and article as well as denying him or the company the right to reply to allegations reflected in the article.
  3. The article alleged that a multimillion tender had been irregularly awarded and that there had been a claim of a ‘R3million bribery cloud hanging over the winning bid’. It is common cause that the winner of the bid was NEO AFRICA SOLUTIONS JV hence the complaint from the Director of NEO AFRICA, who is Vivian Natasen.
  4. It is important to note that the article was about the City of Johannesburg and its current Mayor Mr Mashaba. The story was based on a meeting that Mashaba had had with NEO AFRICA SOLUTIONS JV despite being warned that the tender was irregularly awarded. Three sources provided the information to the writer of the article and the Star had seen an affidavit in which Mashaba had denied knowledge of the irregularity.
  5. The office of the national executive editor attempted, in terms of Independent Media's Complaints Procedure, to broker a settlement between The Star and Mr Natasen. In its response, The Star said it stood by its story and was not willing to make any concessions in response to the allegations levelled against it. The matter was then referred to the Adjudication Panel (Gauteng).

1. The Ruling
   1. The Independent Media Press Code forces publications under its jurisdiction to report news accurately.
   2. Clause 2.1 states that publications owned by Independent Media will not publish inaccurate, misleading or distorted information.
   3. Clause 3 says that anyone who is the subject of critical reportage should be given an opportunity to reply - ahead of publication - unless there is good cause not to.
   4. The panel found the headline "Irregular tender has whiff of R3m graft" was misleading in that it stated, as a fact, that the tender was awarded irregularly. This is not accurate as status of the tender is in dispute.
   5. In terms of Clause 3, there is no doubt that the journalist article must, ahead of publication, seek the views of the subject of critical reportage. Mr Natasen was at the centre of The Star's critical reportage, with a number of serious allegations levelled against him and his company.
   6. The Star ought to have given Mr Natsen an opportunity to respond. Repeating an earlier response to the same allegations is accurate but not sufficient. In pursuit of fair and balanced reporting, as demanded by the Press Code, The Star should have given the complainant an opportunity to respond. Failure to do so constitutes a violation. In relation to the first allegation, the fact that the status of tender was in dispute would have been apparent, had The Star given Mr Natasen an opportunity to respond, as required by the Press Code.
   7. In his complaint, Mr Natasen provided comprehensive responses to the published allegations. This may present an opportunity for follow up article that we encourage in the interest of fairness and balance and in fulfilment of the media's mission to fully inform our readers on every issue we publish.
2. Mitigating Factors
   1. In considering the sanction or remedy in this matter the Ombud took into consideration the following mitigating factors:
   2. The article has stated that “Natasen has emphatically denied the claims at the time and questioned the authenticity of a recording in which he allegedly tried to solicit a bribe”. This indicates an attempt at responsible journalism but it is not enough.
3. Aggravating factors
   1. The following aggravating factors were considered:
   2. The Headline was misleading in that it stated as fact something that was in dispute.
   3. It is important to note that the Executive Mayor of Johannesburg Herman Mashaba, against whom serious allegations were made, was afforded a right of reply, which came from City spokesperson Tanya Heydenrych. Mr. Natasen was prejudiced by the fact that he was denied the same right.
4. Sanction / Remedy
   1. The Star Newspaper is ordered to publish an apology, with a logo of the Office of the Group Ombudsman, on within the first 4 pages of the publication within seven (7) calendar days of the date of this report which is substantially similar to the following text:

APOLOGY

'The Office of the Group Ombudsman received a complaint from Vivian Natasen relating to an article published by The Star. The article on Page 2 of The Star, headlined "Irregular tender has whiff of R3m graft' contained allegations against Mr. Natasen, his company Africa Neo Solutions as well as other against the Executive Mayor of Johannesburg Herman Mashaba.

Natasen accused The Star of inaccurate and misleading reportage as well as denying him and the company the right to reply to allegations leveled against them.

The Gauteng adjudication panel of the Office of the Group Ombudsman considered the complaints and found that the headline of the story was misleading as it stated as allegation as fact. The Star was also found guilty of violating Clause 3 of the Independent Media's Press Code because it denied Mr Natasen a right to reply to the allegations against him and his company. The Star apologizes for the errors.'