



**JUDGMENT OF THE INDEPENDENT MEDIA OMBUD
 NACSA (NPC) VS THE CAPE TIMES (WESTERN CAPE REGION)**

Complaint	
Independent Media Publication	The Cape Times
Journalist/s	
Photographer	n/a
Complaint lodged by	Adv M Doralingo, on behalf of the New Apostolic church (NACSA).
Date complaint lodged	5 October 2019
Type of complaint	Defamation, misleading inaccurate news
Ruling	
Date Ruling delivered	31 March 2020
Applicable version of the Independent Media Press Code	1.0
Clauses of the Independent Media Press Code considered by the Ombud Adjudication Panel	Clauses 2 and 3 which lead to alleged irresponsible and unethical reporting.
Related complaints considered	N/A
Sanction / Remedy	Right of reply in a follow up article
Complaint fee	N/A
Is this report notable?	Yes
Summary of notability	Alleged defamation and an infringement on the complainant's right of reply.

1 Background and Complaint

- 1.1 On 5 October 2019, Adv Mervyn Doralingo, acting on behalf of the New Apostolic Church of South Africa (NACSA), the complainant, officially lodged a complaint regarding a story headlined “Top New Apostolic Church members 'spent tithes buying properties, assets for themselves” (<https://www.iol.co.za/capetimes/news/top-new-apostolic-church-members-spent-tithes-buying-properties-assets-for-themselves-32770572>), which appeared on page 2 of the Cape Times newspaper in a similar format, as well as on IOL, Independent Media’s online platform. It must be noted that IOL’s Editor, Riana Howa, should have also been part of these proceedings but was not contacted as the article originally appeared in The Cape Times. Any sanction or remedy, if any, will include IOL as well.
- 1.2 The article, written by former-Independent Media journalist Dominic Adriaanse, brought to light a series of claims made against NACSA, that the church members spent tithes buying properties and assets for themselves, as alleged by two whistle-blowers. The alleged misuse of funds occurred prior to the amalgamation of NAC regions within southern Africa about three years ago. The article details responses from the representative of the church Adv Doralingo whose responses are quoted throughout the article. The averments made in the article will be dealt with below.
- 1.3 The complainant’s contentions, in summation, are as follows:
- 1.3.1 On 11 September 2019, the Cape Times published on its front page, a story which portrayed NACSA in one or more of the following ways: an institution where the tithes of members are misused, that officials in control of NACSA’s finances purchased fixed property for their private use, that it “covers up” wrongdoing by employees, that the article created the impression that the church failed/refused to release

information about a forensic investigation to its members, and that members of NACSA who were involved in wrongdoing sold fixed property to repay monies they misappropriated;

1.3.2 NACSA is very concerned that the newspaper published information either without verifying the veracity thereof with NACSA and/or despite having been informed about the facts, ignored and/or disregarded these facts and proceeded to publish the article. In addition, the newspaper published responses to questions it asked, so out of context that it can be inferred that the intention was to harm NACSA and/or deliberately mislead readers when it published the article.

1.3.3 That the article contained was untrue and tarnished the complainant's reputation by publishing misleading and inaccurate news that contravened Clauses 2 and 3 of the Independent Media Press Code. These clauses deal with publishing inaccurate and misleading news and the right of reply, respectively. Namely that the complainant was quoted out of context in a way that sensationalized the article which was not a true and full reflection of the Church's stance on the matter at hand.

1.3.4 That the alleged misleading article was defamatory in nature. Annexed hereto, labelled *Annexure A*, are the detailed instances where NACSA felt the article was irresponsible and unethical in its reporting.

1.4 The Cape Times responded as follows:

1.4.1 That they do not to concede that the article is inaccurate or misleading as he claims;

1.4.2 Issues raised by NACSA come down to interpretation. It is clear from the email exchanges between NACSA and the reporter that NACSA did not want the story to be reported on.

1.4.3 That they are working on a follow up story regarding this matter. They have knowledge that the subject of the matter is before the Commission for the Promotion and Protection of the Rights of Cultural, Religious and

Linguistic Communities (CRL) for mediation between the aggrieved parties as stated in the article and NACSA.

- 1.4.4 As such, they offered the church an opportunity to respond in a clear and concise manner to the issues it felt were not properly reflected in the initial article, on top of the questions relating to the mediation process we are following up on. The Church has not expressly refused the right of reply, and Adv Doralingo requested time to ask his client whether they would like to take this offer. Despite that, the Cape times was able to give more information regarding their stance and their response continues below;

2. Ruling

2.1

3. Sanction / Remedy

The Office of the Group Ombud is of the view that the complainant should be offered an opportunity to clarify their side of the story through questions in a follow-up article where the complainant can be articulate themselves in a concise manner.

4. Note

4.1 Adjudication Panellists: Moleboheng Mosia (Ombud Chair), Yvonne Musonza (Panel Member) and Lizaan Nel (Panel Member)

4.2 An apology must be offered to all parties concerned from the Office of The Group Ombud regarding the extreme time delay. We offer our sincerest apologies for any inconvenience caused. The time delays were caused due to unforeseen circumstances relating to internal administrative issues and health issues one of the panel members faced. The Ombud takes full accountability for failing to follow up due to an

excessive administrative burden and backlog. The heavy workload led to this complaint falling through the cracks and the Ombud wishes to offer its sincerest apologies in this regard. The further delay caused by the editor needing time, was reasonable at first, because the journalist had since left, and a thorough investigation needed to be conducted. There was a blatant flouting of process and the Ombud apologizes profusely in that regard. **by the Cape Times regarding the deadlines and that is when the Ombud contacted the editor via phone, who agreed to give a response sooner than later. The editor then offered a right of reply in the form of a follow up article which seemed to anger the complainant, despite it being the view of the Ombud in the best interest of the complainant to have an opportunity to explain their side of the story in a manner that is concise and possibly exculpatory.**

- 4.3 Either party has the right to appeal this decision with the Appeals Panel, and a party wishing to appeal has 7 business days to do so.