



## JUDGMENT OF THE INDEPENDENT MEDIA OMBUD SICPA PTY LTD VS THE STAR (GAUTENG REGION)

<b>Complaint</b>	
Independent Media Publication	The Star
Journalist/s	Khaya Koko
Photographer	N/A
Complaint lodged by	Evan Pickworth on behalf of SICPA Pty Ltd
Date complaint lodged	30 July 2019
Type of complaint	Defamation, misleading inaccurate news
<b>Ruling</b>	
Date Ruling delivered	22 August 2019
Applicable version of the Independent Media Press Code	1.0
Clauses of the Independent Media Press Code considered by the Ombud Adjudication Panel	2.1, 2.2, 2.3, and 3
Related complaints considered	N/A
Sanction / Remedy	Apology to be published
Complaint fee	N/A
Is this report notable?	Yes
Summary of notability	Defamation

## 1 Background and Complaint

1.1 On 30 July 2019, Evan Pickworth, acting on behalf of SICPA (Pty) Ltd, submitted a complaint regarding a story, headlined “***Sarb dragged into global fraud scandal***”, which appeared on page 1, on 25 June 2019, of the Star newspaper, as well as online and social media platforms.

1.2 The Article written by Khaya Koko, a journalist and published by Star Newspapers, made a series of claims against SICPA based on allegations made by Raila Odinga and the Swiss Media, as the sources cited.

1.3 The journalist gleaned the allegations from a website which claimed that, according to a Brazilian court, two weeks prior to the publication of the Article, former Executive and Vice President of the Swiss based SICPA, Charlese Finkel, was charged with fraud and subsequently jailed. The Article goes on to explain how the Kenyan Prime Minister, Raila Odinga, made claims that the Swiss based company was ‘fleecing’ his country after the company received a tender in his country. Furthermore, the journalist holds, according to Swiss media outlets, that the Swiss based company is being investigated in the 33 countries it operates in, including South Africa.

1.4 The complainant, upon seeing the Article, immediately contacted the newspaper. Their contentions are as follows;

1.4.1 The Article contained ‘...a litany of untruths...’ and that it tarnished the complainant’s reputation by publishing misleading and inaccurate news that contravened Clauses 2, 3, 6(2) and 8(1) of the Independent Media Press Code;

1.4.2 The alleged misleading and inaccurate Article caused defamation in so far as Yusuf Abramjee, an influential figure on social media and former radio personality, with over 200 thousand followers on twitter, tweeted

that SICPA (Pty) Ltd must provide transparency as it is corrupt. Yusuf Abramjee went as far as tagging the President of the Republic of South Africa, Cyril Ramaphosa, in his tweet which had an impact on the complainant's reputation.

- 1.4.3 The investigation to which the journalist referred was an old affair dating back to 2015 and the charges did not directly concern SICPA (Pty) Ltd, but rather a former consultant involved in matters in Brazil with no relationship to currency. Furthermore that there are no criminal charges against SICPA (Pty) Ltd in Brazil or any other jurisdiction. The suggestion at the end of the Article that there are 33 open enquiries in the 33 jurisdiction it operates in is also completely wrong.
  - 1.4.4 Notwithstanding clear explanations given in prior communication to the journalist, the journalist erroneously appeared to believe SICPA SA, which stands for SICPA Société Anonyme (the Swiss equivalent of SICPA Ltd) meant SICPA South Africa (Sicpa Pty Ltd). His reporting allegedly wilfully spread confusion.
  - 1.4.5 The editor in communication with the complainant explained how part of the Article was cut in the editing process, infringing on the right of adequate reply, further contravening the Independent Media Press Code.
- 1.5 The Star defended the accuracy in its reporting, and in admitting that the complainant's comment was cut, agreed to publish SICPA (Pty) Ltd.'s original comment in full, with 'reasonable limits of course' or alternatively a 350-word response in the letters to the editors page which is nowhere near the front page, where the original story was published. The complainant responded that they intended on using both options, but they reserved their rights in full.
- 1.6 The complainant then sent a letter to be published in the letters to the editor page, with the intent of still bringing the matter to Ombud's Office, the letter was published on 2 July 2019.

1.7 The Juta Publication website, which provides news services to Professionals and key decision- makers on Good Governance, picked up The Star's Article, which was subsequently removed after SICPA (Pty) Ltd explained the facts.

## 2 Ruling

2.1 Before considering the merits of the matter, it is worth noting that the Ombud of the Independent Media Newspapers is empowered in terms of the Independent Media Press Code and any reference to the Code of Ethics and Conduct for South African Print and Online Media is not relevant to this complaint and was not considered.

2.2 The Star journalist Khaya Koko rightfully contacted SICPA (Pty) Ltd for comment on 21 June 2019. In the Complainant's response, it was clarified that there is a difference between SICPA Pty Ltd and SICPA SA, which stands for SICPA Société Anonyme (the Swiss equivalent of SICPA (Pty) Ltd). Furthermore, the Complainant distanced itself from Mr Charles Finkel and highlighted that he was not involved in the operations in South Africa. This distancing from Mr Charles Finkel and clarification that SICPA (Pty) Ltd and SICPA SA, was cut off the journalist's original Article in the editing process, which was presented to the Ombud upon request. The result of this, is that a lament person reading the paper might believe that the two organizations work hand in hand in South African operations, and it would be negligent and unfair for the Office of the Ombud not to acknowledge this fact.

2.3 Even so, it must be noted that the journalist makes a clear distinction between the Swiss based SICPA and the SICPA in South Africa in paragraphs 2 and 7 of the Article, and it is held that this distinction is clear enough to not cause wilful confusion.

2.4 Regarding the investigations opened in 33 countries, it is evident in the sources provided that the Attorney General of Switzerland is yet to open an investigation in South Africa. Although there is a promise from the Attorney General that globally, SICPA could be potentially investigated. The semantics in paragraph 9 of the Article complained of, suggest that there is an open investigation in 33 countries including South Africa. Through communicating with the journalist, he clarified that he meant that SICPA would be investigated globally in ALL its jurisdictions, all 33 countries it operates in, of which South Africa is included. This small distinction confused not only the complainant, but also the influencer, Yusuf Abramjee. In demanding a high journalistic integrity, the Ombud must agree that the way the sentence is punctuated, insinuates that there is currently an open investigation of SICPA (Pty) Ltd, and it this is misleading in so far as the ordinary meaning of the sentence.

2.5 Given the nature of the allegations, the serious risk of personal and reputational damage to the complainants, fairness should have compelled The Star's editorial team to guard against making the general public believe that SICPA (Pty) Ltd is currently under investigation, when in fact it is not

### 3 Mitigating Factors

3.1 In considering the sanction or remedy in this matter the Ombud took into consideration the following mitigating factors:

3.1.1 The Star journalist Khaya Koko contacted SICPA (Pty) Ltd for comment on the allegations and was given clarification regarding Mr Finkel and the name differentiation. The journalist only made sure that he differentiated the two organizations by mentioning that he was referring to the Swiss based company.

3.1.2 The complainant was given an opportunity to clarify with the option of a letter to the editor.

3.1.3 The gist of the Article contained true facts in so far as the Swiss based company and Mr Finkel.

### 4 Aggravating factors

4.1 The following aggravating factors were considered:

4.1.1 The Article had the potential to considerably damage the professional and personal reputations of SICPA (Pty) Ltd.

4.1.2 The editorial team, after realizing that they had cut the article short, offered the complainant an option to write a letter to the editor, which, in the Ombud's opinion does not suffice. The original Article was published on page 1 of the newspaper, and the letters to the editor page did not have the same impact as the front page of a newspaper.

4.1.3 By incorrectly punctuating the last sentence in paragraph 9 of the Article, the journalist incorrectly insinuates that there is an open investigation in South Africa against SICPA (Pty) Ltd, which there is not.

## 5 Sanction / Remedy

The Star is ordered to publish an apology on at least the same page in which the original article appeared within 10 calendar days of the date of this report.

## 6 Note

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