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Office of the Executive Assistant to the Rector

26 May 1992

Dr B A Khoapa

Secretary of the University Council

University of Fort Hare

Dear Dr Khoapa

Discipling enqgjry : Ms T E Qomfa

Ms T E qumfa who is in the employ of the University as a Clerk in the Admissions Office was charged with 27 counts of Misconduct in terms of the University% conditions of Service on 20 August 1991.

The charges arose out of complaints received from students to the effect that they had arranged for their admission to the University with Ms qumfa at the beginning of 1991 and paid certain moneys to her in connection therewith. She had not been able to have them properly admitted.

The matter came to the attention of the University Management when it was discovered that there were a number of students on campus who had not been admitted, but who were attending lectures and residing in University residences. They appeared to be in what might be called an academic limbo for want of a better term.

In your capacity as Registrar Academic, you and I decided that the situation could not remain as it was and that a meeting had to be called with all these students, at which their problems had to be solved in one way or another on an individual basis. The meeting was duly held and in discussions with the students statements were made by them which contained allegations of Misconduct on the part of Ms T E qumfa and Mrs V Nkomana.

Disciplinary enquiries against these two employees were decided upon and held on 7-14 October 1991. The enquiry against Mrs Nkomana is still proceeding on one count, the enquiry against Ms qumfa was concluded. The delay in Mrs Nkomana,s case, is due to a lengthy period of sick leave she has had to take. The enquiry was held before Advocate M Y Ndzondo of the Bisho Bar. The University was represented by its attorney Mr R D Stanford and Ms qumfa by Mr C Mbanywa (attorney).

Ms qumi'a was found guilty on 10 of the 27 counts of Misconduct with which she was charged. Due to a sen'ous motor accident in which he was involved, there was considerable delay before Mr Ndzondo's reasons for judgement were forwarded to me.

The time during which Ms qumfa could appeal against Mr Nzondo's findings has now expired and I am forwarding-his written reasons for his findings to you, to serve before Council at its next meeting. The purpose is for Council to decide in terms of paragraph D4.21 of the University% Conditions of Service what should be done with Ms qumfa.

Ms qumfa will be entitled to be heard in mitigation at the meeting, and, should she so wish, she may also appoint a legal adviser to appear and plead on her behalf in mitigation.

The counts of Misconduct on which Ms qumfa was found guilty are the following:

(i) Count A(3): That she did an act which was prejudicial to the University administration, discipline or efficiency in that she utilised or attempted to utilise, the whole or portion of the sum of R200.00 paid to her in respect of University fees for Miss T Mnikina, for her own personal and private purposes, and without paying the whole of the said amount to the University.

(ii) Count F3: This count is to the same effect as count A3 above; the amount being R300.00 and the student concerned Miss F P Plaaaitjie.

(iii) Count 03: This count is to the same effect as Count A3 above; the amount being R300.00 and the student concerned Miss W P Mafu.

(iv) Count P2: This count is to the same effect as count A3; the amount being R100.00 and the student concerned Miss L Magubane.

(v) Count Q3: This count is to the same effect as count A3; the amount being R300.00 and the student concerned Miss N C Sinayi.

(vi) Count U3: This count is to the same effect as count A3; the amount being R300.00 and the student concerned Mr A N Cekiso.

(vii) Count X3: This count is to the same effect as count A3; the amount being R300.00 and the student concerned Mr P Makeke.

(viii) Count Y3: This count is to the same effect as count A3; the amount being R300.00 and the student concerned Mr A Zumana.

(ix) Count 21: This count is to the effect that Ms qumfa committed a criminal offence by misappropriating the whole or portion of the sum of R230.00, which said amount was the property of the University and was paid to her by Mr M M Mhlangu in respect of University fees and which amount was intended to be paid over to the University by Ms qumfa.

(x) Count AA1: This count is to the effect that Ms qumfa committed a criminal offence by misappropriating the whole or portion of the sum of R2 100.00, which amount was the property of the University and was paid to Ms qumfa by Miss Anna Maseko in respect of University fees and which amount was intended to be paid over to the University by Ms qumfa.

It must be noted in connection with counts i-xiii above that Ms qumfa, or someone to whom she had entrusted the money, did eventually pay the amounts in question over to the University.

In connection with count x, it must be noted that Ms qumfa spent about R600.00 on behalf of the student concerned who lived at Ms qumfa,s home for some time. Miss qumfais defence was to the effect that on counts i - viii she had given the monies concerned to Mrs Nkomana, the Universityis Schools Liaison thcer, who had in turn arranged for it to be paid over by Mr Hela. Whether this is true is unknown to me, but it could be a mitigating factor in Ms qumfais favour.

You will observe in Mr Ndzondols reasons for his findings that he expresses surprise that Mr Hela, a Clerk who works with post in the Registry, has not been charged. The reason for this is that the admissible evidence, if any, against Mr Hela is not such as to allow for a reasonable prospect of success in a disciplinary enquiry against him.

Please advise me of the date and approximate time when, and place where Ms Gumfals case will serve before Council, so that I may advise her and her attorneys.

--- I enclose a copy of paragraph D421 of the University's Conditions of Service, in which the steps Council could take, are set out.

Copies of the full record of the enquiry are available in my office for perusal by members of Council who may wish to do so.

Yours sincerely

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In the matter between:
UNIVERSITY OF FORT HARE
and

MISS T E GQOMFA

Statement in terms of D4.18 of the Regulations of Fort Hare University.
INTRODUCTION:

Miss qumfa appeared in a disciplinary enquiry at the University of Fort Hare on numerous charges of misconduct. After the evidence had been adduced she was found guilty of contravening the provisions of the regulations set out on page 26 of the typed record. I wish to point out that the finding of guilty on the charge P at page 26 should have been guilty of P2 and not P3. The error is, however, regretted.

Briefly the evidence is that certain students who could not be admitted at the University for one reason or another approached Miss qumfa for assistance. In the process various amounts of monies were handed over to Miss qumfa which amounts, save for one, could not be traced in the books of account of the University. This led to 'these prospective students not being admitted to the University and having to pay extra monies in order to be so admitted.

Miss qumfa admitted receiving some of the monies in question and testified that she gave some to Miss Mnkomana also a staff member at the University. It also transpired that a certain Mr Hela of the Administration section also played a part during these transactions and it came as a surprise to me that no charges were ever preferred against him. I shall now deal with the evidence adduced in respect of each count and also the reasons for my conclusions.

CHARGE 1:

Mrs Heshula testified that her problem was that the application forms of her sister's daughter got missing. She approached Miss qumfa who advised that she should come back the following day with a sum of R200,00 so as to process the application. It would appear that Mrs Heshula came back in the company of the Applicant, the daughter of her sister. She then gave Miss qumfa an application form and a sum of R200,00. The forms and the R200,00 never reached the cashier and she had to complete another application form and pay an extra R100,00 in order to get her sister's daughter admitted. According to her she went to Miss qumfa's office several times to go and find out what was happening with the admission and the latter, according to her, "played hide and seek".

Mr Holcroft, the Chief Admissions Officer, gave evidence. He explained the procedures that should be followed when a student applies for admission and what happens when he or she finally gets admitted as a student. He produced files and documents relating to these procedures which were handed in as Exhibits (see folio 162, folio 279) He pointed out various discrepancies that he discovered in the application forms of the complainants which discrepancies in some instances amounted to forgery or theft. What is also of paramount importance in his evidence is that Miss qumfa knew that she was not authorised to receive any monies from students on behalf of the University. In regard to the charge under consideration Mr Holcroft testified that Miss Mnikama's file only showed that an amount of R100,00 was paid and that there were certain irregularities on the application form in that, inter alia, it was not date stamped and certain sections had not been completed. Miss Mnikama also gave evidence. She is the daughter of Miss Heshula's sister. Although Mrs Heshula testified that Miss Mnikana witnessed the handing over of the R200,00 it is clear from Miss Mnikana's evidence that she did not see her doing so but saw her giving Miss qumfa only application forms. Miss qumfa cross-examined Mrs Heshula at length

denying that she ever gave her any money. During the course of the proceedings it became clear that this denial by Miss Gumfa had no foundation at all. At page 98 Miss Gumfa admitted receiving the sum of R200,00 from Mrs HeshuTa, which money she gave to Miss Mnikana.

CHARGE F:

Both Mr Hotcroft and Miss Ptaatjie gave evidence in support of the allegation in this charge. This charge presents no problem since Miss Gumfa admitted taking Miss Ptaatjie's R300,00 and giving it to Mrs Nkomana, admitting further that she knew that this was both wrong and irregular. She further admitted that her conduct in fact affected the efficiency and discipline of the University.

CHARGE G:

The only dispute in this charge is whether the sum of R300,00 was given to Miss Gumfa by the Comptendant or her mother. This, in my view, is irrelevant. What is important is what emerges from the evidence of Miss Mafu and Miss Gumfa, namely that a sum of R300,00 was given to Miss Gumfa and only an amount of R100,00 could be traced in the Tedger book and the remaining R200,00 remains unaccounted for. The Applicant had to complete another application form in order to be admitted.

CHARGE H:

The Comptendant testified that her sister Fezeka Pete gave Miss Gumfa postal orders to the value of R100,00 together with the application forms at the end of January 1991. She was present when this took place and that no receipt was issued for this money. She did not get admitted. She approached Miss Gumfa to enquire about this and the latter promised her that she would be admitted later on. She completed another application form after the Easter weekend without paying any extra money and received her admission card in April or May. Miss

qumfa did not deny that the complainant and her sister came to her with application forms but insisted that she referred them to the cashier and that no money was given to her by any of them. It is clear from the evidence of Mr Hoicroft and from the evidence of the complainant that she had to complete a second application form. If the money had been paid to the cashier as Miss qumfa alleged, her application would have been processed in the normal way and there would have been no reason for her to complete a second application form. Secondly the witness testified that she went to Miss qumfa to enquire about her R100,00 and the latter promised that she would be admitted. This piece of evidence was never challenged by Miss qumfa. If Miss Magubane, the complainant, had paid the R100,00 to the cashier, what does she stand to gain by lying to say that she gave the money to Miss qumfa, more in particular that she did not have to pay any extra money to get admitted. It was for this reason that I rejected Miss qumfa evidence that she never received any money from the complainant or her sister. In any event her evidence is consistent with the evidence of other complainants in that they approached Miss qumfa when they could not get admitted for assistance and she indeed helped them.

CHARGE Q:

This count presents no problems in that Miss qumfa, although she initially denied receiving the sum of R300,00 from the complainant (page 13) later admitted receiving this money and passing it over to Mrs Nkomana (page 121 lines 23 (226)).

CHARGES U, X AND Y:

These counts fall into the same category as the previous one in that Miss qumfa categorically stated that she received the monies in question and gave them to Mrs Nkomana.

CHARGE Z:

The charge sheet refers to the complainant as Miss M M MhTangu. This appears to be an error because the aggrieved person in this case is a male and is Mr M M MhTanga. The applicant's brother, Mr AtweTi MhTanga testified that he is related to Miss qumfa. On the 31st October 1990 he came to the University and gave Miss qumfa an admission fee of R230,00 for his brother. He never received a receipt and when he later saw Miss qumfa he asked her about his brother's admission and Miss qumfa replied that it would be sorted out. The brother also gave evidence saying that he approached Miss qumfa in February to enquire about his admission and she promised him that he would be admitted. He was finally admitted in April after the meeting that had been called by Professor Du Piessis. At first Miss qumfa denied that she ever received the money in question but could not explain why the two brothers to whom she was related were giving false evidence against her. In fact AtweTT at some stage shook his head, presumably in disbelief, when Miss qumfa denied receiving this money from him. AtweTT impressed me as an honest witness and I have no reason to disbelieve him. In any event Miss qumfa conceded under cross-examination by Mr Stanford that it is possible that Mr MhTanga might have given her this money and that she has forgotten (page 131 Tines T - 3).

CHARGE A 1:

The facts in this count are not simple. Miss Maseko applied for admission at the University during September 1990. She posted to the University a sum of R230,00. Apparently something went wrong with her application and in February she had to travel to Atteridgeville together with her mother to make enquiries. Her mother met Miss qumfa at the Administration offices and she came back with the news that Miss qumfa would accommodate her, that is her daughter, at her flat until such time as she was admitted. Her mother gave Miss qumfa a sum of R2 000,00 which according to Miss Maseko was for her registration fees. She

stayed with Miss qumfa for a week and on the foiiowing week Miss qumfa brought another six students who were in need of accommodation at the University. These students were admitted in March and she was admitted in Aprii. Her mother sent Miss qumfa a sum of R1 100,00 and she gave Miss Maseko a sum of R100,00. She then asked for registration fees from Miss qumfa and the iatter promised to give her when she had been admitted. After she had been admitted in April she demanded this money from Miss qumfa and the latter promised to draw the money from the Buiiding Society. Miss qumfa never gave her this money until she ieft to take up residence at the Amatoia Hotei. During May her mother came to Alice to find out what was happening but nothing positive materialiised. In cross-examining her, Miss qumfa suggested to her that she did make various attempts to draw this money from the Buiiding Society in Fort Beaufort but, for one reason or another, failed to get it. The witness confirmed this. It also transpired during cross-examination that Miss qumfa bought some new books for her from the second R1 100,00 that she had received from her mother. Miss qumfa gave evidence Confirming receiving some monies from the Complainant's mother but alieged that the first amount was R1 000,00 and not R2 000,00. She aiso testified that she attempted to draw some money and give it to the Compiainant after she had been admitted but couldn't succeed due to various reasons. She finaiiy managed to get the money but could not find the Compiainant because the latter had aiready left and did not know where she was staying. Miss qumfa estimated that the Compiainant had spent about R500,00 out of the R2 000,00 that she had received from her mother. At the time of the hoiding of this enquiry the money in the sum of R1 500,00 (according to Miss qumfa) was still in her bank account, She admitted under cross-examination that these monies were meant to pay for the fees of Miss Maseko at the University and she couidn't give a satisfactory expianation as to why she had not paid the money to the University. It can safely be accepted that Miss qumfa in fact received a sum of R1 000,00 from the mother of the Compiainant and not R2 000,00 as

alleged by Miss Maseko. I say this because the charge sheet in respect of this count mentions a sum of R1 900,00 which amount is closer to the sum of R2 100,00 which Miss qumfa alleged she received from her mother than the R3 100,00 mentioned by the Complainant. Secondly, Miss Maseko was not an entirely satisfactory witness. She was not prepared to concede to matters that appeared to be favourable to Miss qumfa. For example, Miss qumfa put it to her that the reason why she had not been admitted was that Mr Holcroft had not received her examination number and to this she gave an answer that did not make sense at all. (Page 42 lines 7 to 11). Again when Miss qumfa put it to her that she tried to draw her money from the bank she was very vague and inconsistent in her answers. (Page 43) Her answers were unsatisfactory when Miss qumfa told her in cross-examination that some money was used to buy books for her. (Pages 44 to 45). Also Mr Stanford did not, when cross-examining Miss qumfa, seem to suggest that Miss qumfa was lying in saying that he received, in all, a sum of R2 100,00 from the mother of the Complainant.

Mr Mbanjwa, on behalf of Miss qumfa, submitted that the University had no jurisdiction to try Miss qumfa for this charge. He argued that at the time that Miss qumfa received the monies in question Miss Maseko was not yet admitted as a student and there was a parent/child relationship between them at that time. This argument, in my view, loses sight of the fact that Miss Maseko regarded herself as a student at Fort Hare at that time in that, firstly, she was attending lectures and had been assured by Miss qumfa that she would definitely be admitted as a student. Secondly, the monies that were given to her were for University fees and Miss qumfa recognised this fact by keeping this money in her bank account on behalf of the Complainant because she knew that this money would be needed in future by the Complainant. In any event Miss qumfa proceeded to keep this money in her bank account even after Miss Maseko had been admitted and was now a fulltime student. It would have been the easiest thing to do in the world to find out in which faculty this lady was and give her the money in question or pay it

to the University on her behalf for that matter. Miss Gumfa couldn't give a satisfactory answer as to why up to the time of this enquiry she was still holding this money in her bank account. She also admitted that the money was not hers and was University property. I am therefore, of the view, that her conduct in keeping this money with her when she knew that Miss Maseko had been admitted and definitely needed this money for registration at the University was prejudicial to the discipline and administration of the University. Having considered the evidence as a whole in this matter and the credibility of Miss Gumfa, I am not prepared to accept the version of Miss Gumfa where it conflicts with the evidence of the witnesses in the counts in which she denies her guilt. In some instances she denied receiving any money but under cross-examination would admit so. For example she denied receiving money from Mrs Heshula, a fact she later admitted when being cross-examined by Mr Stanford. (Page 14 and page 98). To me it appears that there was a scheme there in terms of which Miss Gumfa irregularly accepted monies and application forms from students after the deadline and gave these to Miss Nkomana and passed to Mr Heia and the latter then backdated the application forms to make them appear as if they were received by the University before the deadline. In the process some of the monies were not paid over to the cashier and could not be accounted for and in some instances only a portion of it appeared in the books of account of the University. There is however, no conclusive evidence that Miss Gumfa benefited from this but there is no doubt that she knew that what she was doing was wrong and also knew that either Miss Nkomana or Mr Heia was putting some of these monies in his or her pocket.

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D4.19 If notice of appeal has been given in accordance with the provisions aforesaid, as so applied, the provisions of sub-regulations 8 to 16, both inclusive, of regulation D1 shall, mutatis mutandis, apply.

D4.20 If the Minister allows the appeal of an appellant who was suspended from duty, the appellant shall forthwith be allowed . to resume his duties and be paid his full emoluments for the period of his suspension in so far as it has not yet been done.

" D4.21 (a) If the officer charged admits the charge of misconduct in terms of sub-regulation 3 or if he is found guilty of misconduct in terms of sub-regulation 15 and no appeal was noted against the finding within the specified period of time, or if an appeal was so noted and the Minister has dismissed such appeal wholly or in part, the council may decide or the council may recommend to the Minister, depending on the grade of the officer charged -

(i) that the said officer be cautioned or reprimanded; or

/ . (ii) that a fine not exceeding R400 be imposed upon him, which fine may be recovered by deductions from his emoluments in such instalments as may be determined by the council or the Minister, as the case may be; or

(iii) that he be transferred to another post; or

(iv) that his salary or grade or both his salary and grade be reduced to an extent as the council or the Minister, as the case may be, shall decide; or

(v) that he be discharged or be called upon to resign as from a date to be specified by the council or the Minister, as the case may be:

13 / Provided

Provided that -

(aa)

(bb)

(CC)

except where the council takes a decision in terms of sub-paragraph (v) or makes a recommendation under that sub-paragraph, shall not be precluded from taking a decision under more than one of the foregoing sub-paragraphs or to make a recommendation under more than one of the foregoing sub-paragraphs;

the council may postpone, for a period not exceeding 12 calendar months, the taking of a decision or the making of a recommendation; and

-if an officer who has been called upon to resign, fails to resign as from the date specified, he shall be deemed to have been discharged as from the date specified.

(b) A recommendation to the Minister in terms of this sub-regulation shall be accompanied by the minutes of the proceedings at the enquiry and all other documents that relate to the enquiry.

D4.22 The Minister may adopt the course recommended by the council
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in terms of subregulation 21 or any other course which he could have adopted had the council recommended it in terms of that sub-regulation.

If an officer who has been suspended from duty in terms of sub-regulation 4, is dealt with in accordance with provisions of sub-paragraph (i), (ii), (iii) or (iv) of paragraph (a) of sub-regulation 21 or of the third proviso to that paragraph, he shall forthwith be allowed to resume duty in a suitable post, and he shall be paid his full emoluments for the period of his suspension in so far as it has not yet been done:

14 / Provided