



COSATU

CONGRESS OF SOUTH AFRICAN TRADE UNIONS

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13 January 2014

Mr Zwelinzima Vavi

Dear Sir

NOTICE OF DISCIPLINARY ENQUIRY

- 1 Kindly be informed that you are hereby called upon to attend a disciplinary enquiry at which you will be required to plead to and, in respect of matters in dispute, will be presented with evidence concerning the allegations against you that are set out below.
- 2 The hearing will commence on a date and at a time to be arranged with you and/or your legal representatives. If no satisfactory arrangement can be concluded in that way, the date and time will be determined by COSATU on reasonable terms and you will be informed thereof. You will also be notified in due course of the venue for the hearing.

- 3 The disciplinary enquiry will be chaired by Advocate Wim Trengove SC (*"the chairperson"*) who will be authorized to make findings on all the charges against and, in the event of a finding of guilt on one or more of them, to decide on the appropriate sanction.
- 4 Given that COSATU will be legally represented at the enquiry, you are free to arrange similar representation for yourself.
- 5 The decision to appoint an external chairperson and to permit legal representation at the enquiry was taken by COSATU in the light of the fact that you occupy a very senior position within COSATU and because it is manifestly desirable that the charges should be heard before and determined by an independent person.
- 6 Please be advised that COSATU considers the charges against you to be grave and destructive of the working relationship between it and yourself. Subject of course to the findings of the chairperson, it is the intention of COSATU to move for your summary dismissal in the event of a finding of guilt in respect of one or more of them.
- 7 The documents that COSATU intends to rely upon at the hearing will be delivered to you with this Notice.
- 8 Kindly note further that should you not attend the disciplinary enquiry as duly scheduled it will proceed in your absence.

THE CHARGES

Your position and duties

- 9 At all times material hereto you occupied the post of General Secretary of COSATU.
- 10 In terms of clause 10.1 of the COSATU constitution and as further detailed therein, you are responsible for *inter alia* COSATU's financial affairs and general co-ordination and supervision including "*office work and administration of the affairs and activities of the Federation and the supervision of staff*"
- 11 You were at all times under a general duty to conduct yourself in such manner as to advance the interests, effectiveness and reputation of COSATU and, to that end, to act at all times with the high levels of integrity, fidelity and honesty that are appropriate to your post.
- 12 In particular, you were obliged to comply with and promote compliance by other members of staff with the provisions of COSATU's "*Staff and Leadership Code of Conduct*", including but not limited to the following:
 - 12.1 In clause 1 it is recorded that there must be compliance with "*the aims and objectives*" of the constitution; "*other duly adopted policy positions*"; the decisions taken by COSATU and/or its structures.

- 12.2 Clause 1 likewise declares that: *"All leaders must perform their duties in a manner that maintains and enhances workers confidence and trust in the integrity of the Federation"* and that: *"Leaders are the face of the organization, the custodian of organisational decisions and must be alert to, and make others aware of any potential damages to the local and global image of the Federation."*
- 12.3 Clause 3 states *inter alia* that: *"Every leader and employee occupies a position of trust towards his or her structure and all other structures of the Federation"; "Every leader has a fiduciary duty to the Federation, which requires that he or she, at all times, acts with fidelity, honesty, integrity and in good faith; and in the best interest of the Federation"; "Every leader must conduct himself or herself in a manner that provides effective transparent and accountable leadership; and facilitates effective co-operation between the structures in the interests of the Federation"; "Leaders must advance the principles of co-operative governance between the structures by ensuring that: they conduct their activities without impeding nor contradicting the spirit and efforts of the Federation's constitution, its policies and decisions; and" ... "coordinating their actions with one another; adhering to agreed procedures; and generally conducting himself*

or herself in the highest standards of integrity and ethical behaviour."

- 12.4 Clause 4 states *inter alia* that: "*Honesty is an essential component of trust. Without trust an organisation cannot function effectively. An honest leader will not make deliberate, false or deceptive claims about other leaders or staff but instead provide full disclosure of all pertinent organisational or leadership infractions, limitations and problems.*"
- 12.5 Clause 5 prescribes *inter alia* that: "*A leader and or a staff member shall not make unauthorised use of any property, assets or resources of the Federation for any personal reasons. ... This responsibility extends to the use and security of the Federation's credit or access code card.*"
- 12.6 Clause 6 details the duty to avoid conflicts of interest and requires of a leader *inter alia* that he or she "*must take every possible step to avoid a conflict of interest between his/her personal interest and the interests of the Federation.*"
- 12.7 Clause 9 deals with 'Discipline' and provides *inter alia* that:
- 12.7.1 "*A leader and or staff member will respect decisions taken by the Federation in terms of its structures,*

whether or not he or she personally agrees with them and he/she will report such decisions in a positive manner to avoid undermining them;"

12.7.2 "A leader and or staff member will not behave in a manner that brings the Federation or its structures into disrepute or which manifests a flagrant violation of the moral integrity expected of a leader."

13 You were also obliged to comply with COSATU's "Recruitment Policy" and/or to satisfy yourself that other employees were acting in compliance with it, provisions of which Policy include the following:

13.1 Clause 3 stipulates that prospective employees are to be recruited and selected according to the inherent requirements of the position and an assessment of that person's competencies for that position.

13.2 In terms of clause 5, all positions to be filled are to be advertised internally, although they may simultaneously be advertised externally also *alternatively* through external recruitment only if in the best interests of COSATU.

13.3 Clause 6 records that all vacant posts are to be advertised.

- 13.4 Clause 7 stipulates that 'head-hunting' is an exceptional process and must in any event be used in conjunction with the normal advertising process.
- 13.5 Clause 10 defines procedures for the checking of references, the verification of qualifications and the carrying out of criminal record checks, this being noted as especially important in circumstances where *inter alia* a prospective employee is being considered for positions "*that pose a security threat, or allow the person access to, or control over, resources, cash or other financial instruments.*"
- 13.6 Clause 13 requires that the Administrative Secretary is responsible for the induction of new employees.

The Individual Charges

- 14 In respect of each of the individual charges set out below you are guilty of serious misconduct in that you intentionally *alternatively* recklessly *further alternatively* negligently acted in breach of your general duties and responsibilities as an employee of COSATU and/or in breach of your duties and responsibilities as the General Secretary of COSATU as set out in COSATU's constitution and/or as set out in the policies of COSATU, as outlined above and/or identified below.

15 Insofar as a charge below may refer to a specific breach or policy provision, such referral is not to be construed as implying that COSATU does not at the same time rely on any one or more of the breaches set out in the preceding paragraph.

16 Each of the individual charges set out below is to be read in conjunction with the preceding two paragraphs.

17 **Charge 1**

Recruitment and Employment of

17.1 During or about December 2011 you befriended, recruited, interviewed and thereafter employed *alternatively* caused the employment of [redacted] by COSATU as the Logistics Administrator, initially on a six-month fixed term contract beginning on 1 January 2012 and ending on 30 June 2012.

17.2 In so doing you acted unilaterally, without following and in breach of the advertising and related employment procedures prescribed in COSATU's Recruitment Policy including, without limitation, clauses 3, 5, 6, 7, 10 and 13 thereof.

18 **Charge 2**

Relationship with

18.1 During or about October or November 2012 you entered into an intimate relationship with Ms [redacted] that involved *inter alia* frequent kissing and cuddling as well as, on 25 January 2013, sexual intercourse during working hours and in her office at COSATU's premises.

18.2 In so doing you acted in breach of your duty of good faith towards COSATU as its General Secretary and brought the reputation of both that office and of COSATU as a whole into disrepute, having regard *inter alia* to the following:

18.2.1 the fact that you were a very senior employee and office bearer of COSATU whereas [redacted] was a very junior employee who reported to you;

18.2.2 the fact that, throughout this relationship, both you and [redacted] were married;

18.2.3 the fact that this relationship was conducted within a working environment which required that you should conduct yourself in a manner befitting your position, including the maintenance of appropriate dignity, authority and ethical standards;

18.2.4 the fact that issues around gender sensitivity and sexual harassment or exploitation formed an important component of COSATU's efforts to uplift morality and gender equality in workplaces throughout South Africa; and

18.2.5 your duty in terms of the Code of Conduct to avoid a conflict of interest between your interest in the relationship and your duties to COSATU in respect of *inter alia* the management and supervision of |

19 Charge 3

The conversion of | to permanent employee

19.1 On or about 12 December 2012, after the commencement of your relationship with |, you caused the employment of her to be converted into one of a permanent contract of employment, effective as from 1 July 2012 together with retrospective payment of benefits as from that date. You did so:

19.1.1 without consulting the finance department or otherwise establishing that the employment of | in the

post of Logistics Administrator had been or would be of cost benefit to COSATU;

19.1.2 without establishing that _____ was or had demonstrated herself to be sufficiently qualified and/or experienced and/or capable of properly performing the work of a Logistics Administrator;

19.1.3 without informing the other National Office Bearers of COSATU (*"the NOBs"*) of your relationship with Ms _____, at the time of the confirmation by them of her permanent employment.

19.2 In so doing, you acted in breach of your duty of good faith, honesty and integrity and contrary to the interests of COSATU.

20 Charge 4

Supervision of

20.1 During the period of approxin _____ to approximately 19 July 2013 you received a number of complaints from, among others, the COSATU National Accountant, Mr Ramaru, concerning material shortcomings in the performance by _____ of her duties and, in particular, her ongoing failure

to properly reconcile the COSATU travel expenses for the purpose *inter alia* of maintaining effective budget controls.

20.2 Notwithstanding these complaints, you failed to react to them in any effectual manner and you hence failed to resolve the issues around poor performance, to the prejudice of COSATU's financial controls.

20.3 As a result of your said failure to proper complaints and/or to supervise and/or to act on her failure to reconcile the travel expenses, travel expenses in the amount of R483,737 for the 2012 financial year and R778,624 for the 2013 financial year are unaccounted for and in respect of which there are no supporting documents.

20.4 In acting as aforesaid, you have breached your duties of good faith to COSATU and, in particular:

20.4.1 your duties in respect of financial controls as described in clauses 10.1.1.1 and 10.1.1.4 of the COSATU constitution; and

20.4.2 your duties of supervision as described in clause 10.1.4 of the COSATU constitution.

21 Charge 5

Distribution of internal grievance and response

21.1 On or about 15 July 2013 [redacted] lodged a formal grievance against you in terms of COSATU's internal procedures, in which she *inter alia* alleged that you had raped her on 25 January 2013.

21.2 On 27 July 2013, before the set down of the grievance hearing, you released and distributed on a major social media network, namely Twitter, details of the grievance and your response thereto, including annexures which contained [redacted] name and contact details. These documents were identified by you as being available on the COSATU website. Your tweet read:

"The allegations of rape will be proven false in the due process at COSATU. Read full statement I have released & judge for your self (sic)"

21.3 In so doing, you acted unilaterally and without any prior notice to or discussion with the leadership of COSATU regarding your intention to do so.

21.4 In the premises, you acted in breach of your duties to COSATU and in a manner unbecoming its General Secretary, having regard to the following:

- 21.4.1 you displayed a lack of regard for the integrity of an internal grievance procedure, which your office required you to promote;
- 21.4.2 you displayed a lack of respect for the COSATU leadership;
- 21.4.3 you displayed a lack of respect for the entitlement of [REDACTED], as an employee very junior to yourself, to lodge a grievance against you, whether or not it was well-founded;
- 21.4.4 your conduct was prejudicial to the reputation of your office and to the reputation of COSATU as a whole; and
- 21.4.5 your conduct was calculated to undermine workers confidence and trust in the integrity of COSATU, in breach of *inter alia* clause 1 of the Code of Conduct.

22 Charge 6

Personal expenses and personal travel

22.1 During the period March 2012 to July 2012 and at your instance, the following personal and family travel expenses were paid by COSATU:

22.1.1 a ticket for Noluthando Vavi (your wife) flying from Johannesburg to Cape Town on 28 March 2012 in the net amount of R7,180 for the Jazz Festival, which amount was paid with COSATU credit card 0526;

22.1.2 accommodation at the Nova Constantia Boutique Hotel for the Jazz Festival during the period 28 March 2012 to 1 April 2012 in the net amount of R14,128 for you and Noluthando Vavi;

22.1.3 a ticket for Noluthando Vavi flying from Cape Town to Kimberley on 1 April 2012 and returning to Johannesburg in the net amount of R2,145;

22.1.4 a ticket for Noluthando Vavi flying from Johannesburg to East London on 11 May 2012 and returning to Johannesburg on 13 May 2012 in the net amount of R4,182;

22.1.5 a ticket for Noluthando Vavi flying from Johannesburg to Cape Town on 27 May 2012 and returning to

Johannesburg on 28 May 2012 in the net amount of R2,318;

22.1.6 a ticket for Noluthando Vavi flying from Johannesburg to Cape Town on 31 May 2012 and returning to Johannesburg on 4 June 2012 in the net amount of R3,572;

22.1.7 a ticket for Noluthando Vavi flying from Johannesburg to Cape Town on 6 June 2012 and returning to Johannesburg the same day in the net amount of R1,960;

22.1.8 a ticket for Nikiwe Vavi flying from Johannesburg to Durban on 9 July 2012 and returning on 15 July 2012 in the net amount of R1,726, which amount was paid with COSATU credit card 0526; and

22.1.9 a ticket for Aphelele Vavi flying from Johannesburg to Durban on 9 July 2012 and returning on 15 July 2012 in the net amount of R1,555, which amount was paid with COSATU credit card 0526.

- 22.2 At your instance a charge for services rendered to you by a body therapist at the Parktonian Protea Hotel on 23 May 2013 was paid by COSATU in the amount of R1,500.
- 22.3 The expenses reflected in the above paragraphs were not refunded by you.
- 22.4 The said expenses:
- 22.4.1 were incurred without the knowledge or authorisation of the Deputy General Secretary or the NOBs of COSATU;
 - 22.4.2 were incurred at a time when to your knowledge the NOBs had decided, in the context of COSATU's serious cash flow problems, that no personal expenses would be incurred by COSATU on behalf of its NOBs; and
 - 22.4.3 were incurred and processed on your behalf by
- 22.5 In acting as aforesaid you made yourself guilty of serious misconduct in that:

22.5.1 you failed to act in accordance with your duty of good faith towards COSATU and in accordance with the fidelity, honesty and integrity required of you in your position as General Secretary; and

22.5.2 you breached clauses 3 and/or 4 and/or 5 of the COSATU Staff and Leadership Code of Conduct.

23 Charge 7

Carte Blanche interview on 4 August 2013

23.1 During an interview with Carte Blanche on 4 August 2013, which was televised nationally, you were specifically asked if anyone else had interviewed with you. In response you stated: *"And the Administrative Secretary, yes, of the Federation."*

23.2 To your knowledge, that response was false. In truth, you had interviewed on your own.

23.3 In acting as aforesaid:

23.3.1 you breached your general duty to act at all times in good faith and with integrity and honesty;

23.3.2 you breached your particular duty to deal with the media and the public with integrity and honesty;

23.3.3 you in consequence brought the office of General Secretary and COSATU as a whole into disrepute; and

23.3.4 you breached clause 4 of the Code of Conduct in that you made a deliberate and false claim about the role of Ms Fakude in the appointment of

24 Charge 8

Breach of suspension conditions

24.1 On 15 August 2013, you were placed on special leave by the Central Executive Committee of COSATU pending the outcome of an investigation into possible misconduct by yourself.

24.2 To that end, you were served with a letter of suspension, part of which reads as follows:

"4 In the circumstances, you are released from all of your duties as the General Secretary of COSATU, until further notification from us. This period of special leave is subject to your compliance with the following terms and conditions:

4.1 You will be required, during this period of special leave, to continue participating in the facilitated process arranged by COSATU which is aimed at building the unity of the Federation. You will be

kept informed of all the arrangements in respect of this process;

4.2 In so far as you may require any documentation or information from the federation during this period of special leave, you are requested to make such requests in writing to Deputy General Secretary;

4.3 You may be required to make yourself available for any meetings or discussions pursuant to the proposed investigation;

4.4 You are required to provide the Federation with all information or assistance necessary to ensure the smooth running of the office of the General Secretary."

5 Should you have any queries in relation to the contents of this letter or to any matter related thereto, kindly address such queries in writing to Deputy General Secretary."

24.3 Notwithstanding the specific terms of paragraph 4.2 of this letter you have on a number of occasions deliberately breached that requirement, including these instances:

24.3.1 you attended the COSATU offices on 8 November 2013 at approximately 12h15 and left at approximately 13h30, with a view to obtaining information and/or documents;

24.3.2 you have telephoned and sent SMS communications to Ms Fakude on numerous occasions to request that

she provide you with various documents, such as: your annual increase adjustment letters for the period 2011- 2013; a report regarding the nomination of leadership to the last COSATU Congress; information regarding your bodyguard's sick leave; and you also instructed Ms Fakude to institute disciplinary charges against your bodyguard for absenteeism;

24.3.3 you have telephoned your personal assistant, Ms Dolly Ngali on various occasions, including:

24.3.3.1. at the end of August 2013 or beginning of September 2013 when you requested copies of the NOB's documents and minutes, which documents you then had your bodyguards fetch from Ms Ngali;

24.3.3.2. on 8 November 2013, whilst at COSATU premises, you handed a bundle of documents to Ms Ngali and instructed her to give them to Mr Ramaru with the advice that you would call him about them;

24.3.3.3. on 12 November 2013, you called Ms Ngali and instructed her to get Mr Ramaru to call you;

24.3.4 pursuant to this Mr Ramaru called you on that day when you queried the fact that COSATU's attorneys had written to your attorneys about your attendance at the COSATU office on 8 November 2013;

24.3.5 on 18 November 2013, you initiated a discussion with Mr Ramaru in which you asked him about payments made for his wife on the travel credit card and whether or not these had been refunded.

24.4 You did not inform the Deputy General Secretary about your intended visit to the COSATU office on 8 November 2013 or of the various requests for information or documents set out above.

24.5 Accordingly, you have breached your suspension conditions, your duties of good faith and integrity to COSATU, as well as your obligation in terms of clause 9 of the Code of Conduct to respect the decision of the CEC taken on 14 August 2013 to place you on special leave pending the outcome of the investigation of possible offences by you.

25 Charge 9*Utterances derogatory of COSATU and its leadership*

25.1 The letter of 15 August 2013 placing you on special leave set out the matters in respect of which you were to continue to play a role as the General Secretary of COSATU. Although you were otherwise relieved from all other duties in that capacity, whilst the investigation concerning you was being conducted, you nevertheless remained the incumbent of that position. Accordingly, you were still required fully to observe and comply with all the duties and obligations attendant upon that position.

25.2 In particular, you were under a continuing obligation to observe and comply with the express provisions of *inter alia* clauses 1, 3 and 9 of the Code of Conduct, which have been recited above. In terms thereof you were required to conduct yourself in a manner, shortly described, that displayed respect for the decision to place you on special leave and to investigate possible charges against you. By the same token, you were required not to conduct yourself in a manner that would undermine such decision and the allied process of the investigation concerning you. You were also required to so conduct yourself as to maintain and enhance workers confidence and trust in the integrity of COSATU.

25.3 Notwithstanding the above, you have repeatedly spoken in public, to the media, and through the medium of your Twitter account in terms that are manifestly disrespectful and scornful of the decision to place you on special leave and to conduct the said investigation. In the same way, you have expressed yourself in terms that are disrespectful and scornful of the current leadership of COSATU and, in so doing, you have undermined workers confidence and trust in the integrity of COSATU itself and of its alliance partners, being the ANC and the SACP.

Your public utterances

25.4 On 16 August 2013 you made a public statement on the decision to place you on special leave pending investigation and possible disciplinary action, which statement was *inter alia* posted on the NUMSA website. In it, you made your view clear that the steps taken against you were not *bona fide* and you stated *inter alia* that:

25.4.1 “No informed COSATU member, or member of society, can claim to be unaware of the fact that, for more than a year now, some faceless and at times unidentified, leaders of certain COSATU affiliates have openly and in public launched a systematic campaign aimed at removing me at the COSATU 11th National

Congress, and when that failed, at the February and May 2013 CEC."

25.4.2 *"One of the intentions of the so-called intelligence report which we are distributing to members of the press today is clear – to divide COSATU. It forms part of a campaign currently under way to weaken and destroy a COSATU that many have come to appreciate as a independent, fearless spokesperson of the interests of the most downtrodden in our country and elsewhere in the world ... It is a campaign to reduce COSATU into a labour desk of the governing party where leaders, whose ambitions are to serve in Parliament and Cabinet, will be able to advance their individual personal careers. Quite clearly, those who have formed long queues in the corruption-feeding trough fear an independent organisation, and I believe they have designed schemes to divide and destroy COSATU, no matter the consequences for workers' interests and South Africa as a whole."*

25.4.3 *"I have no doubt in my mind that this report has been widely circulated amongst certain leaders in the organisation, and has changed the reader's*

perspectives about me. Individuals who only yesterday would have laid their lives on the line in my defence and in the defence of the organisation have changed in the recent past and today are my worst political enemies."

25.4.4 *"Today a report which has all the hallmarks of being the work of rogue elements in the intelligence community, who are in the employ of factionalists within our organisations, produced a complete and a total fabrication ...with the purpose of smearing me and getting me removed as the General Secretary."*

25.4.5 *"The Federations of workers is today in total turmoil, divided and totally paralysed. COSATU, thanks to these schemes to divide it, is today unable to take forward its Congress or workers' decisions ..."*

25.4.6 *"I have instructed my lawyers to challenge the decision to put me on special leave ... for, amongst others, the following reasons ... The President of COSATU prejudiced himself because he circulated the so-called intelligence report whose intention is to smear and destroy my person ..."*

25.5 On 22 September 2013, you tweeted:

"COSATU paralysed due to leadership divisions can't take up single campaign since last congress. Congress to break stalemate – others scared."

and

"Thought was working for unity but aided paraysis – it was a mistake Definitely" (sic)

25.6 These tweets reflected aspects of an address given by you at the NUMSA political school held at Benoni during the week beginning 16 September 2013, in the course of which you reportedly said *inter alia* that:

25.6.1 COSATU was paralysed by internal divisions and was unable to take forward resolutions that had been adopted at the 2006 National Congress.

25.6.2 This could not be corrected by making a leadership deal which is going to continue the paralysis that is presently being seen.

25.6.3 You called for a Special National Congress and for fresh leadership elections in order to end COSATU's present 'paralysis'.

25.6.4 You lashed out at union leaders (including: S'dumo Dlamini the President of COSATU, Frans Baleni the General Secretary of NUM and Fikile Majola the General Secretary of NEHAWU) who had accepted election onto the ANC's National Executive Committee, saying that this dual role compromised workers and paralysed the Federation.

25.6.5 In a thinly veiled attack on S'dumo Dlamini, you said words to the effect of: *"I have heard that the people are now saying we don't want a sweetheart federation, but their actions are different. Its just rhetoric."*

25.7 In your highly critical attack on those union leaders who were also members of the ANC NEC you chose to ignore the fact, of which you were well aware, that COSATU had previously taken a resolution that its leaders may serve on the ANC NEC. Although you may not have been in agreement with that decision, you were obliged to respect it and to comply with it.

25.8 On 23 September 2013, you tweeted:

"Never said I am above discipline of the organisation but insist it must be fair and not driven by ulterior motives."

and

"Court not challenging right of COSATU to disc but illegal & unfair suspension driven by people with ulterior intentions & with worst records"

25.9 On 27 September 2013, you tweeted:

"Bye Zwelinzima and a united working class! Hello e-tolls!"

and

"Fair well united working class – welcome youth enslaving youth wage subsidy" (sic)

25.10 On 28 September 2013, you tweeted:

"Regrettably SACP has not played a role of uniting COSATU. Public stance taken by its leaders make it impossible for them to unite"

25.11 On 9 October 2013, you tweeted:

"No one person can stop etolls. It was power of united working class – unfolding tragedy is COSATU now divided by external interests."

- 25.12 On 17 October 2013, regarding the ongoing investigation into possible offences by you, you tweeted:

"They will look until they blue in the face – they will no such an evidence – they know it does not exist."

- 25.13 On 22 October 2013, you tweeted:

"No one brought forward evidence of credit card misuse – if u have old/new please hand that to some in COSATU desperate to find something."

- 25.14 On 13 November 2013, you tweeted:

"Today marks 3 months since I was put on suspension. There has been no charges! Instead 2nd set of forensic auditors doing fishing expedition."

- 25.15 On 23 November 2013 you addressed a NUMSA special regional congress in Durban, which had been convened to consider the questions whether NUMSA should remain part of COSATU and

whether the alliance was still in workers' interests. You reportedly took this opportunity to state *inter alia* that:

25.15.1 *"My wife is here with us. I travel with her these days. We have talked about my mistake and we are done with it. We agreed that we cannot go back to the past as we must live for the future. But I hear that in Cosatu there are people who are still crying over my mistake. This is shocking."*

25.15.2 You added that those who were aggrieved were married men and women who had a 'countless number' of children born out of adulterous relationships.

25.15.3 Aside from thus belittling the COSATU leadership, you also wrongfully conveyed to the NUMSA members present there that the fact that your wife had come to terms with your relationship with [redacted] should expunge any question as to whether you had thereby committed a workplace offence.

25.15.4 You also said that the COSATU leadership had been searching for anything they could use to nail you down and repeated your call for a special COSATU

congress at which new leadership could be elected and your suspension uplifted.

- 25.15.5 In your speaking notes for the same Congress, which notes were published on the web, you stated *inter alia* that:

"The crisis in COSATU must also be understood as reflecting the contradictions between those leaders in COSATU who have been won over to the side of the defenders of a neo-liberalist South African capitalism under the guise of taking responsibility for the National Democratic Revolution and those who are determined to continue to pursue the struggle for socialism as the only holistic and viable solution to the national, gender and class questions in South Africa."

- 25.15.6 In the same notes you state that: *"I am speaking strictly in my personal capacity ... "* You have made similar disclaimers on other occasions. It is alleged by COSATU that a disclaimer of this kind is of no force and effect in the context of an address of the present nature and, in truth, that the utterances made by you

were not separable from the fact that you were at all material times the General Secretary of COSATU, albeit suspended.

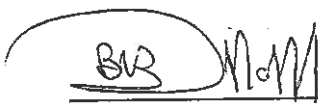
25.16 On 16 December 2013 you tweeted:

"Regrettably lost hope that reconciliation will happen at COSATU. The other side is hell bent on flushing me out. That's reality you must face."

Conclusion

26 At the hearing of these disciplinary charges, COSATU will as appropriate submit that you are guilty as charged, on the basis as aforesaid. Having regard to the gravity of the charges, but subject to the findings of the chairperson, COSATU reiterates its notice to you that it will move for your summary dismissal.

THUS SIGNED AND DATED AT Braamfontein THIS 13th DAY OF JANUARY 2014.



Bheki Ntshalintshali
Acting General Secretary
COSATU