

This Mediation Agreement (the "Agreement") is made on 14 February 2013 between:

The South African Human Rights Commission

And

Zama Khumalo ("the respondent")

(Collectively referred to herein as "the Parties") and

Ms Chantal Kisoona ("the mediator")

(South African Human Rights Commission)

WHEREAS

The South African Human Rights Commission (the Commission) has received a number of complaints against Mr Zama Khumalo (more fully set out below), and

WHEREAS

The Commission, in terms of its Constitutional mandate, wishes to assist all interested parties to resolve the matter through a conciliatory process (the "Mediation"):

AND WHEREAS

The parties have agreed to the terms set out in Annexure A attached hereto.

IT IS FURTHER AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. THE MEDIATOR

- 1.1 The Parties agree that Ms Chantal Kisoona, the Provincial Manager of the Gauteng Provincial office of the Commission, chairs the meeting and assists them to resolve the matter. No objections regarding independence or bias were raised by any of the parties present.

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- 1.2 If the date or dates and venue of the Mediation are not set out in Schedule 1, they shall be determined in writing by the Mediator after consultation with the Parties.

2. CONFIDENTIALITY, PRIVILEGE AND INDEMNITY OF MEDIATOR

- 2.1. All information (whether given orally, in writing or otherwise) produced for, or arising out of or in connection with the Mediation and passing between any of the Parties and/or between any of them and the Mediator and made for the purposes of the Mediation will remain confidential and cannot be used for any ongoing or future legal proceedings.
- 2.2. The Mediator shall be under no obligation whatever to retain any documents or electronic records made or obtained for the purposes of the Mediation. The Mediator may destroy or delete such materials at any time after termination of the Mediation and cannot be held liable, whether criminally or otherwise, for her involvement in the mediation process.
- 2.3. None of the Parties may call the Mediator as a witness in any litigation, arbitration or adjudication in relation to or arising out of the Dispute and/or the Mediation. In the event that any Party, in breach of this provision, calls the Mediator as a witness, that Party shall indemnify and hold harmless the Mediator from and against all and any costs, including legal costs that the Mediator may thereby incur.

3. APPLICABLE LAW AND DISPUTES

- 3.1. This Agreement shall be governed by the law of South Africa. The Parties hereby consent to the exclusive jurisdiction of the Courts of South Africa, which shall be competent to hear any claim, dispute or difference in connection with or arising out of:
- 3.1.1 this Agreement and/or
- 3.1.2 the Mediation and/or
- 3.1.3 any agreement in settlement and/or purported settlement of the issues at hand.
- 3.2. The Parties agree, however, to use their best efforts, before any court proceedings are started, to settle by mediation, any such claim, dispute or difference.

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IN WITNESS WHEREOF, the Parties and the Mediator have caused this Agreement to be executed by their undersigned duly authorised representatives:

Signed on this the 14th day of February 2013 at Braamfontein, Johannesburg

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

MR ZAMA KHUMALO

Signed on this the 14 day of February 2013 at Braamfontein, Johannesburg

A handwritten signature in black ink, featuring a circular loop at the beginning followed by several fluid, connected strokes.

CHANTAL KISOON

FOR AND ON BEHALF OF

THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION

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SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Ref No: GP/1213/0773

In the matter between:

Media 24 and Others

Complainants

and

Mr Zama Khumalo

Respondent

MEDIATION AGREEMENT

1. **INTRODUCTION**

1.1. The South African Human Rights Commission (hereinafter referred to as the "Commission") is an institution established in terms of Section 181 of the Constitution of the Republic of South Africa Act, 108 of 1996 (hereinafter referred to as "the Constitution").

1.2. The Commission is specifically mandated to:

1.2.1 Promote respect for human rights;

1.2.2 Promote the protection, development and attainment of human rights;
and

1.2.3 Monitor and assess the observance of human rights in the Republic.

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- 1.3 Section 184(2) of the Constitution empowers the Commission to investigate and report on the observance of human rights in the country.
- 1.4 The Human Rights Commission Act, 54 of 1994, provides the enabling framework for the powers of the Commission.
- 1.5 Section 9(6) of the Human Rights Commission Act, 1994 determines the procedure to be followed in conducting an investigation regarding an alleged violation of or threat to a fundamental right.
- 1.6 Article 3(b) of the South African Human Rights Commission's Complaints Handling Procedures, provides that the Commission has the jurisdiction to conduct or cause to be conducted any investigation on its own accord or upon receipt of a complaint, into any alleged violation of or a threat to a fundamental right.

2. **THE PARTIES**

2.1 A following 12 (twelve) complaints were received by the Commission between 6th and 13th February 2013:

- 3.1.1. Media 24
- 3.1.2. Johan Claasens
- 3.1.3. Richard Bradshaw
- 3.1.4. Yannis Hendrickx
- 3.1.5. Craig Firman
- 3.1.6. Angelique Raison
- 3.1.7. Eva Kujawu
- 3.1.8. Susan Ryall
- 3.1.9. Elize Venter
- 3.1.10. Carol Ventre
- 3.1.11. Marinda Visser
- 3.1.12. Elmien Wood

2.2 The respondent is a 24 year old unemployed South African male.

3. **BACKGROUND TO THE COMPLAINT**

3.1 From 6th to 13th February 2013, the Commission received a number of complaints against Mr Zama Khumalo (the respondent) for comments made by him on the social network website, Facebook.

3.2. In terms of Chapter 8 (clause 38) of its Complaints Handling Procedures, the Commission elected to consolidate all of the complaints received on the basis that they related to fundamentally the same following allegations against the respondent:

3.1.1. On 24 January 2013, the respondent posted the following comment on his Facebook page relating to a school bus accident, which took place in the Westdene area of Johannesburg during 1985 where a number of school children tragically lost their lives:

"WESTEDENE DAM – 27 MARCH 1985

Thanks so much my God for the death of:

- 1.) *Petrus Koen*
- 2.) *Elsa Van Heerden*
- 3.) *Conrad Marx*
- 4.) *Rita Botha*
- 5.) *Reinette du Plooy*
- 6.) *Adrian Horn*
- 7.) *Anel Jacobs*
- 8.) *Andre Kleinhans*
- 9.) *Inalize Kruger*
- 10.) *Linda du Plooy*
- 11.) *Connie Pretorius*
- 12.) *Deon Venter*
- 13.) *Caroline Brown*

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- 14.) Karin Erasmus
- 15.) Betsie Pretorius
- 16.) Tanya Pieters
- 17.) Hester Reynders
- 18.) Kobie Els
- 19.) Marietjie Kruger
- 20.) Connie Van Der Westhuizen
- 21.) Riaan Lira
- 22.) Marietjie Kguger
- 23.) Francis Botha
- 24.) Anna van Tonder and 16 Others.

MUCH APPRECIATED MY LORD!"

- 3.1.2. In response to statements made by two different individuals with access to the respondent's Facebook page, the respondent made the following additional statement:

"On 27 March 2013, I will send out an invite to invite you to come to the Westedene Dam for a BIG Black Braai, (100% Blacks), fireworks, DJ – Black-People, celebrating their death.. and "we will always celebrate the death of whiteness".

- 3.1.3. A few days later, the respondent removed the offensive comment and posted the following comment on Facebook:

"I have taken time to consider and reflect on the Westedene Facebook post that I made earlier this week, including the comments contained in it.

The matter has been such a huge personal pressure on my part that I received inbox threats.

I heartily apologise and deeply regret the post, and the pains that I have caused to the parties touched. I'M SORRY."

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3.1.4. The comments on Facebook, a social medium that has the potential of reaching a considerable number of individuals not only in South Africa but throughout the world, caused a widespread and intense emotional reaction from individuals directly affected by the tragic accident as well as members of the general public. It also reignited the reality of an extremely traumatic experience for many of the families who lost loved ones and who remain deeply affected by the incident today. Many of the complaints emphasised the insensitivity of the comments, especially taking into account that 42 children had lost their lives as a result of the accident.

3.1.5. Media 24 Limited instructed their attorneys to forward correspondence to the respondent alleging that the comments were racist and discriminatory in nature and amounted to hate speech. The legal representative for Media 24 Limited further alleged that the respondent had made certain remarks which had created the false impression that the respondent was currently in the employ of Media 24 resulting in a public association between the company and the respondent therefore causing substantial reputational damage to Media 24 Limited.

4. STEPS TAKEN BY THE COMMISSION

4.1. In fulfilling its mandate under the Human Rights Commission Act, the Commission is tasked with ensuring that the rights contained in the Bill of Rights are not violated. This necessarily includes a consideration of the Constitution, statutory frameworks designed to protect such rights and relevant common law. For this reason, the Commission saw fit to accept and investigate the Complainants' complaints to determine whether a violation of human rights had in fact occurred.

4.2. The Commission jointly assessed each of the complaints received and reached a conclusion that a prima facie violation of human rights had taken place as a result of the actions of the respondent. The respondent's subsequent apology on Facebook and his removal of the offending post strengthened this assessment.

- 4.3. The Commission was satisfied that its decision was supported by judicial precedent in matters involving hate speech, *crimen injuria* and human dignity. Most significantly, it intended to highlight that the matter presented an opportunity for the respondent and the complainants to better appreciate the values of the Constitution, respect for human rights and democracy. As a result, the Commission adopted an approach intended to meet reconciliatory objectives. The decision to adopt such an approach and attempt to amicably resolve the disputes were also influenced by a consideration of the respondents personal circumstances.
- 4.4. Of his own accord, the respondent attended at the offices of the Commission on Friday, 8 February 2013 to engage with the Commission regarding his actions, his experiences after having made the comments on Facebook and generally, his feelings of remorse regarding his actions, which he confirmed to the Commission, he deeply regretted.
- 4.5. During the meeting, the respondent, a 24 year old, shared his personal circumstances and the frustration this has subjected him to. He indicated that since making the comments, he had received numerous threats through email and Facebook on a daily basis. He faced daily embarrassment and fear of his physical security.
- 4.6. The Commission also assessed the respondents understanding of the impact of his comments not only on those individuals directly affected by his comments but by the nation at large, the seriousness and discriminatory nature of his comments, the wide public interest and response caused by his actions and the urgent need for redress. Following on from the general discussion, the Commission suggested that an urgent mediation take place with the respondent and other interested stakeholders with a view to ventilating the important issues the respondent's actions had elicited for the benefit of all parties. Recommendations regarding the relief sought by each of the complainants were put to the respondent for his consideration in anticipation of such a process. Upon receipt of the respondent's verbal agreement to attend the mediation, a meeting was provisionally scheduled for Thursday, 14 February 2013 at its offices.
- 4.7. The Commission telephonically contacted each of the complainants to notify parties of the mediation, their option to attend, and to confirm the following:

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- 4.7.1. The relief sought by them through the Commission;
- 4.7.2. The steps taken by the Commission pursuant to receiving the complaints;
- 4.7.3. The Commission's recommendations, to be put to the Respondent, specifically regarding the following:
 - 4.7.3.1. Acceptable apology through the SAHRC to the general public;
 - 4.7.3.2. Acceptable apology on his Facebook page;
 - 4.7.3.3. Acceptable apology to each of the families of the deceased mentioned in the offending Facebook comment and which forms the basis of the complaints received by the SAHRC; and
 - 4.7.3.4. An undertaking to attend appropriate diversity counselling and / or an education program, to be decided upon by the SAHRC.

4.8. Through the abovementioned process, the Commission confirmed the relief sought and authority to proceed on a consensual basis with the mediation.

4.9. Over and above the Commission's recommendations, three complainants suggested possible additional relief, which was discussed during a pre-mediation meeting on 14 February 2013. Pursuant thereto, agreement was reached with the respondent regarding the relief to be sought (the details of which appear hereunder).

5. **ANALYSIS OF APPLICABLE LEGISLATION AND CASE LAW IN RELATION TO THE COMPLAINT**

5.1. The Constitution and statutory frameworks such as the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (PEPUDA), purport to be a bridge between a deeply divided past and a future founded on the recognition of human rights. They guarantee, amongst other things, the rights of equality, human dignity and freedom of expression. While none of the rights entrenched in the Constitution or enabling statutes are absolute, the limitation of rights is informed significantly by our past and vast socio-economic disparities of the present. This context obliges the Commission to encourage discourse through the complaints we receive in an attempt



to test the true extent of justifiable limitations within the broader considerations of the nation building project.

5.2. Section 9 of the Constitution provides as follows:

- “9(1) Everyone is equal before the law and has the right to equal protection and benefit of the law.*
- 9(2) Equality includes the full enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.*
- 9(3) The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.*
- 9(4) No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3).”*

5.3. Section 10 of the Constitution provides that:

“Everyone has inherent dignity and the right to have their dignity respected and protected”.

5.4. To give effect to the right to equality protected in the Bill of Rights, PEPUA provides as follows:

- 5.4.1. Section 6 – *“Prevention and general prohibition of unfair discrimination: Neither the State nor any person may unfairly discriminate against any person.”*
- 5.4.2. Section 7 – *“Prohibition of unfair discrimination on ground of race: Subject to section 6, no person may unfairly discriminate against any person on the ground of race, including —*

- (a) *the dissemination of any propaganda or idea, which propounds the racial superiority or inferiority of any person, including incitement to, or participation in, any form of racial violence:*
- (b) *the engagement in any activity which is intended to promote, or has the effect of promoting, exclusivity, based on race."*

5.4.3. Section 10 (1) – *"Subject to the proviso in section 12, no person may publish, propagate, advocate or communicate words based on one or more of the prohibited grounds, against any person, that could reasonably be construed to demonstrate a clear intention to:*

- (a) *be hurtful;*
- (b) *be harmful or to incite harm;*
- (c) *promote or propagate hatred."*

5.4.4. Section 10 (2) – *"Without prejudice to any remedies of a civil nature under this Act a court may, in accordance with section 2 (2) (n) and where appropriate, refer any case dealing with the publication, advocacy, propagation or communication of hate speech as contemplated in subsection (1), to the Director of Public Prosecutions having jurisdiction for the institution of criminal proceedings in terms of the common law or relevant legislation."*

5.4.5. Section 12 – *"No person may—*

- (a) *disseminate or broadcast any information:*
- (b) *publish or display any advertisement or notice,*

that could reasonably be construed or reasonably be understood to demonstrate a clear intention to unfairly discriminate against any person: provided that bona fide engagement in artistic creativity, academic and scientific inquiry, fair and accurate reporting in the public interest or publication of any information, advertisement or notice in accordance with section 16 of the Constitution, is not precluded by this section."

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5.5. There is ample precedent regarding hate speech, both at the level of the courts and through the findings of the Commission¹. A recent judgment as yet unreported was delivered by the South Gauteng High Court, wherein the presiding officer recognized both the impact of social media and the need for a close consideration of it. In this matter the court awarded damages in favour of the applicant but also took cognizance of subjective factors as well. However, social media has not been sufficiently traversed in and of itself through either forum. In general, the four broad reasons for prohibiting hate speech at a social level apply with equal force to hate speech conducted through social media. These reasons include:

5.5.1. To prevent disruption to public order and social peace stemming from retaliation by victims.

5.5.2. To prevent psychological harm to targeted groups that would effectively impair their ability to positively participate in the community and contribute to society.

5.5.3. To prevent both visible exclusion of minority groups that would deny them equal opportunities and benefits of...society and visibly exclude their acceptance as equals.

5.5.4. To prevent social conflagration and political disintegration.²

5.6. One can therefore surmise that hate speech of the type complained of is a direct infringement on the inherent right to dignity possessed by every person and can also be seen as a disregard for the following values espoused in the Constitution, namely:

¹ Afri-Forum and another v Malema and another (Vereeniging van Regslui vir Afrikaans as *amicus curiae*) 2011

(6) SA 240 (EqC); **SAHRC vs J. Qwelane** case no: 44/2009 (EqC); SAHRC obo South African Jewish Board of

Deputies case no: 01/2012 (EqC); ANC and others v Harmse & another: In re Harmse v Vawda 2011 4 ALL SA

80 (GSJ); Freedom Front v South African Human Rights Commission & another 2003 11 BCLR 1283 (SAHRC);

Sv Mamabolo (e-Tv, Business Day and the Freedom of expression Institute intervening) 2001 (3) SA 409 (CC)

² Afri-Forum and another v Malema and another (Vereeniging van Regslui vir Afrikaans as *amicus curiae*) 2011

(6) SA 240 (EqC)

- 5.6.1. Human dignity, the achievement of equality and the advancement of human rights and freedoms;
 - 5.6.2. Non-racialism and non-sexism; and
 - 5.6.3. Supremacy of the Constitution and the Rule of Law.
- 5.7. During September 2012, the Commission played a pivotal role in guiding two young women towards an amicable resolution following numerous complaints lodged by members of the public in respect of racist comments made in response to each other on the social network, Twitter.³ The settlement in this matter confirmed the need for an understanding of the impact of their statements and need for an effective and conciliatory resolution of the matter, not only for their benefit but for the benefit of the nation as a whole.
- 5.8. We note in particular the statement by the court a quo in the Malema matter where learned Ncogobo J it stated that:

"All hate speech has an effect, not only upon the target group but also upon the group partaking in the utterance... It lowers them in the eyes of right minded balanced members of society who then perceive them to be social wrongdoers. In addition, to the extent the words are inflammatory; members of the group who hear them might become inflamed and act in accordance with that passion instilled in them by the words. If it is claimed that the conduct was acceptable at a point in time and that a vested right exists to persevere with it on the basis of a legitimate expectation the simple answer is that times have changed. Change or transformation is hurtful [our emphasis]. That hurt encompasses the loss of the exercise of rights which constitute violations of the Equality Act...It is the words of one person motivating others that leads to action by those persons. All genocide begins with simple exhortations which snowball. Words provide the stimulus for action, the means to numb the natural repugnance against hurting humans and the reward which is to be harvested after action. Words are powerful weapons which if they are allowed to be used indiscriminately can lead to extreme and unacceptable action [our emphasis]."⁴

³ Jessica Leandra Dos Santos & Tshidi Thamana

⁴ Ibid

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The sentiment expressed above is a point of reference relied on by the Commission in respect of the complaints currently before it.

6. MEDIATION

- 6.1. On 14 February 2013, the Commission, through its Gauteng Provincial Manager, met with the respondent at its provincial office in Braamfontein. The meeting was attended by the legal representative of Media 24 Limited, a representative from Media 24 Limited, representatives from the Commission, including its CEO, and the respondent.
- 6.2. The Commission explained the nature of the meeting and the mandate of the Commission in terms of its constitutional obligations to the respondent and the other attendees. The respondent was guided through the form and nature of mediatory proceedings. He was advised that the meeting was not intended to be an adversarial hearing with the objective of determining or apportioning blame, but was instead aimed at reaching a consensus in line with principles of reconciliation, directed at understanding motives, perception and interests. The following objectives and process were outlined and agreed to:
- 6.2.1. To provide the respondent with an opportunity to provide a background of the events which led up to the posting of his comments on Facebook, his personal experiences since posting the comment including the public response which it had elicited, his feelings of remorse and regret towards those affected;
 - 6.2.2. To permit a process which encourages constructive, responsible forward growth and understanding;
 - 6.2.3. To convey and confirm the relief sought by complainants;
 - 6.2.4. To establish his own needs;
 - 6.2.5. To provide the complainants (or their duly authorised representatives) present with an opportunity to ventilate their views regarding the issues raised; and
 - 6.2.6. To reach agreement regarding the terms to be included in a settlement agreement, to be finalised by the respective parties, signed by the respondent and made public through the Commission.



- 6.3. The respondent provided a detailed explanation regarding the events which led up to the posting of his comments on Facebook, the frame of mind which he had found himself in prior to the posting of the comments and his own personal experiences thereafter including the public response to his actions. The respondent provided a verbal recount of events leading to the posting demonstrating his frame of mind, and acute feelings of remorse and regret about the hurt caused to those affected, to Media 24 Limited and the general public.
- 6.4. The above was reciprocated in a statement by one of the complainants (Media 24 Limited) who accepted the respondent's statement, recount of events and sincerity of the respondent's apology.
- 6.5. On this basis, consensus was reached regarding each term of the settlement process as encompassed in this agreement.
- 6.6. The chairperson of the meeting thanked the attendees for their cooperation, their willingness to resolve the matter in the spirit with which it had been undertaken, their honesty and commitment to an amicable resolution and closure and open engagement toward reconciliation taking into account our socio economic and historical context.

7. TERMS OF SETTLEMENT

- 7.1. On a consideration of the age of the respondent, remorse shown, other forms of relief suggested by the complainants, feedback from the complainants regarding the Commission's recommendations and all other relevant factors, the following terms of have been agreed to:
- 7.1.1. An undertaking for the adoption of the settlement agreement by the respondent;
- 7.1.2. A public apology to form part of the Commission's settlement as stated hereunder;
- 7.1.3. A public apology specifically directed to the families of those who lost loved ones during the Westdene Bus Crash, to be posted on the following website:
www.westdene1985.co.za;



- 7.1.4. A public apology on the Facebook page of the respondent;
- 7.1.5. The settlement agreement to be made public to the media and the complainants;
- 7.1.6. That the respondent visits the website: www.westdene1985.co.za to take note of some of the photos and articles written about the accident to afford the respondent an opportunity to truly appreciate the trauma caused by the event;
- 7.1.7. An undertaking to participate in suitable diversity training programmes or educational workshops, as recommended by the Commission;
- 7.1.8. That the respondent visits the Westpark Graveyard where many of the children who lost their lives were laid to rest to clean the graves and to place flowers at the tombstones, taking into account the following:
- 7.1.8.1. The respondent has indicated his need for security during this visit, which the Media 24 representatives undertook to provide in conjunction with monitored support from the Commission.
- 7.1.9. Further to the terms set out above and specifically requested by Media 24 Limited:
- 7.1.9.1. That the respondent will not submit any articles / posts / articles / text in respect of Daily Sun, City Press, Sunday Sun or any other Media 24 Limited Publication on the respondent's Facebook, LinkedIn, Google, Twitter profiles or on any other website, social media network or platform which would be considered unlawful in South Africa;
- 7.1.9.2. That the respondent, at any stage of submitting articles / posts / articles / text on the respondent's Facebook, LinkedIn, Google, Twitter profiles or on any other website, social media network or platform relating to Media 24 and its publications, shall clearly state the period during which he was employed with Media 24 Limited to avoid the impression that he is currently employed at Media 24 Limited;
- 7.1.9.3. That the respondent hereby undertakes not to publish any further articles / posts / articles / text which are prohibited in South African law;

- 7.1.9.4. That the respondent hereby undertakes not to publish any further articles / posts / articles / text which are prohibited in South African law regarding the Westdene Dam Tragedy;
- 7.1.9.5. That the respondent will ensure the removal of all posts and comments published by the respondent on his Facebook page (Zama Khumalo) which are unlawful in terms of South African law;
- 7.1.9.6. That the respondent will ensure the removal of all unlawful posts and / or comments relating to Media 24 Limited;
- 7.1.9.7. That the respondent will ensure that the public does not have access to any photographs through his Facebook, LinkedIn, Google and / or Twitter profiles or on any other website or social media network or platform which indicate an employment relationship between the respondent and Media 24 Limited;
- 7.1.9.8. That the respondent provides an unconditional apology to the family and loved ones of every victim of the Westdene Dam Tragedy (which can be done through the following website: www.westdene1985.co.za), the South African Public, Media 24, Daily Sun and City Press.
- 7.1.9.9. That the apology from the respondent must be published in full on the respondent's Facebook page and that related thereto:
- 7.1.9.9.1. The respondent will continually monitor all comments made on his Facebook page relating to his apology and will remove all unlawful comments within a reasonable period of time after having been requested to do so by Media 24; and
- 7.1.9.9.2. Media 24 has undertaken to monitor the Facebook page of the respondent for a reasonable time in the foreseeable future to ensure compliance herewith.

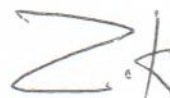
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- 7.1.9.10. That the respondent's apology be made available to Media 24 Limited, to be published on its websites and be provided to SAPA, at its discretion together with a statement urging the South African public not to engage in further conduct of a similar nature;
- 7.1.9.11. That the respondent attends a diversion / rehabilitation course regarding race relations in South Africa (as per the Commission's proposals).
- 7.1.10. That subject to the above, the complainants agree to the following:
 - 7.1.10.1. To cease pursuit of all ongoing or intended legal action against the respondent, whether criminal or civil in nature;
 - 7.1.10.2. To regard this agreement as a final settlement of their complaints against the respondent and to desist from any further actions against him arising from the complaint.

9. PUBLIC APOLOGY

On this the 14th day of February 2013 at Braamfontein and before Ms Chantal Kisoona, the provincial manager of the Gauteng Provincial Office of the South African Human Rights Commission, the respondent consents to the following public apology (to be distributed as set out more fully above):

I, the respondent herein, hereby tender my summary and unequivocal apology to the general public of South Africa, the Commission, each of the complainants, Media 24 Limited and its publications, the friends and families of both the survivors and the deceased and any individuals who were either directly or indirectly affected by the tragic Westdene bus accident. I acknowledge the hurt and pain that I have caused as a result of the comments made on my Facebook profile, which were made in a state of anger and disappointment. I therefore truly and genuinely apologise for making such statements and I accept the terms of the agreement as more fully set out herein and also undertake from this date onwards to refrain from, by word and / or by deed, conducting myself in a manner associated with hate and hurtful speech or racism such as that contained in my previous comments.

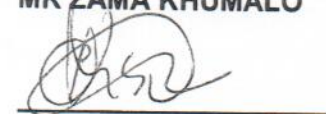


The Commission hereby recommends that members of the public and complainants accept this apology.

Signed on this the 14th day of February 2013 at Braamfontein, Johannesburg.



MR ZAMA KHUMALO



MS C KISOON

PROVINCIAL MANAGER: GAUTENG PROVINCIAL OFFICE

FOR AND ON BEHALF OF THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION