**ADDENDUM: General remarks**

21 August 2020

1. Mr Connie Myburgh and Nova Property Group have simultaneously lodged six complaints with the office of the Press Ombud.
2. These are:

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| * 1. **Complaint Number: 7792** – *Article*: *Irba reports Nova to Sars and CIPC*; and *Comments by readers*: Moneyweb’s platform (24 February 2020);   2. **Complaint Number: 7795** – *Where is Hans Klopper?* (4 March 2020);   3. **Complaint Number: 7804** – *Seven reasons Orthotouch’s dismal failure must be investigated* (5 March 2020);   4. **Complaint Number: 7828** – *Covid-19 halts Sharemax auditors’ disciplinary hearing – Three ACT Audit Solutions directors are facing hundreds of charges related to work done for failed investment scheme* (17 March 2020);   5. **Complaint Number: 7829** – *Three former Sharemax auditors, 413 improper conduct charges* (23 March 2020); and   6. **Complaint Number: 7830** – *Nova: Insolvent, or in a sound financial position?* (26 March 2020). |

1. I shall now make some general remarks about these adjudications:

3.1 Myburgh’s insulting language, *ad infinitum*, aimed at the editor, is regrettable. I want to repeat what I have said all along: His criticism of Van Niekerk has crossed the border – not only was it aimed at his reportage, but he also attacked the editor’s character. For this reason, I initially declined to adjudicate his complaints. There comes a time when the office of the SA Press Council not only has to protect the public from the media, but also protect the media from the public. This was such a time.

3.2 After chair of Appeals Judge Bernard Ngoepe ordered that I should adjudicate the complaints on condition that Myburgh toned down his language, he did so – to some extent. I am still not convinced that he has done so satisfactorily (and therefore, if my decision to adjudicate the complaints was the right one). However, as I have said in all my adjudications, my conviction that these findings might be in the public interest had the last say;

3.3 It is to Moneyweb’s credit that it has relentlessly tried to get comment from the subjects – even though it was clear that no comment was forthcoming. Many media institutions just give up and publish without giving such a subject a right of reply. Moneyweb did not fall into that trap – this, despite sentences such as, “Orthotouch took the correct view to ignore Mr van Niekerk, as it occurred to it that to respond to Mr van Niekerk serves no purpose, as he will not report anything that is correct and fair, and that, to reply, only gives another platform to Mr van Niekerk to write yet another malicious, incorrect, negative, damaging and defamatory article” (I rest my case.);

3.4 Myburgh often complains *that* some statements were false, or unfair, etc. – but seldom he informed me *why* that was the case. That was not helpful. It is difficult, if not impossible, to find for a complainant if that person does not submit some kind of evidence to substantiate her or his case;

3.5 On the other hand, Moneyweb has inundated me with heaps of documents – (nearly) all of which substantiated its reporting;

3.6 I have previously, in a different context, referred to the danger of a 007-syndrome on the part of the media. Some journalists seem to think they have a “licence to kill” once they have identified who they believe is a dubious subject – and in that process throw some or all journalistic standards and ethical norms overboard. Then, *anything goes*. To its credit, Moneyweb has resisted this temptation. Except for two relatively small mistakes (which it has corrected promptly), its reportage in all six articles complained of was justified and reasonable – and consistently based on the information at its disposal. The only instance in which I have issued a sanction against the publication was the exception;

3.7 I cannot agree with Myburgh’s consistent allegation that the editor of Moneyweb was malicious. (He repeatedly alleges “utmost malice, to create maximum damage” on the editor’s part.) The word “malice” implies a deliberate attempt to cause someone harm. Indeed, Merriam-Webster defines malice as, “*the desire to inflict injury, harm, or suffering on another, either because of a hostile impulse or out of deep-seated meanness*”. Given the reasonableness of the reporting, throughout, and consistently having based it on credible evidence, I have no reason whatsoever to declare malice on the editor’s part, or on the part of his publication. On the contrary, I see a publication committed to its duty as the Fourth Estate;

3.8 Myburgh’s persistent request that this office “severely sanctions” and “investigates” the editor is therefore not going to happen. If the editor did breach the Code, several times and on serious issues, I would not have hesitated to do so. However, I am not going to sanction an editor for staying within the borders of the Press Code;

3.9 I have little doubt that Moneyweb’s reportage on the relevant matters has caused Myburgh some harm – but the publication is not to be blamed for that. The preamble to the Press Code warns that the media should not cause *unnecessary* harm. Based on the evidence provided to me, I do not believe that that is the case with Myburgh vs. Moneyweb;

3.9 It is not for me to say if Myburgh and Nova are guilty of anything. This office is not a court of law. What I can say, though, is that Moneyweb has done its best to fulfil its role as watchdog – and has done so, from a media ethical perspective, admirably well; and

3.10 In the end, Moneyweb needs to be congratulated on its fair and balanced reportage, and to be encouraged in its efforts to continue holding public figures accountable to society – which is the reason for the existence of the media in the first place.

***Johan Retief***

*Acting Assistant Press Ombud*