

CONFIDENTIAL



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The Honourable Minister of Higher Education and Training
Dr BE Nzimande
Private Bag X893
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By e-mail: Mr G Qonde (gqonde.g@dhet.gov.za)
Mr C Mabizela (mabizela.c@dhet.gov.za)

30 August 2015

Dear Honourable Minister Nzimande

GOBODO FORENSIC INVESTIGATION

At its meeting of 21 August 2015, the NWU Council resolved to provide you with the following documentation:

- The executive summary by the authors of the external forensic audit ("the Gobodo Report"), pertaining to the donation of R10million by the NWU (through its former Vice Chancellor, Dr Theuns Eloff) to the Northwest Higher Education Trust ("the Trust") provided as Annexure A;
- A letter by Dr Eloff's attorneys regarding certain aspects of the Report (Annexure B);
- Council's resolution pursuant to the Report as taken on 19 June 2015 (Annexure C).

By way of background, the following remarks:

- The said documents are provided to you as you are entitled to be kept informed of issues of a substantial nature pertaining to Higher Education – but also as a matter of courtesy.
- The Report together with the recommendations by Council's Executive Committee to Council, were made available to Dr Eloff as per the principle of *audi alteram partem* for his insight and comment, prior to Council resolving on the issue. Pursuant to that Dr Eloff commented as per his attorneys' letter as attached hereto.
- By the very nature of the Report it contains matter which may be regarded as "untested evidence" in the sense that inferences which may be regarded by some to contain defamatory matter against them, form part of the Report. Should Council "publish" the Report (in the sense of making it public) it may open itself up to defamation actions against it – something which Council would like to avoid at all cost (you would remember that similar considerations applied to the Wessels report). For that reason, the executive summary has been obtained from the authors, as it reduces the risk of containing "untested" or "one-sided" matter to some extent.

- However, and in order to avoid further controversy which can only be to the detriment of the NWU, we (with all due respect) call on you to bear the foregoing in mind and keep the publishing of the executive summary and its contents to a minimum, if at all.
- As the authors of the Report (on the one hand), and Dr Eloff's attorneys (on the other) hold different views regarding the interpretation/meaning of the document on which Dr Eloff relied as "authorising" him to make the payment of R10million, Council resolved that the solution to, what clearly is a legal issue, should not delay the speedy finalisation of the matter by Council. Council therefore opted to rather address any ambiguities which the said document may contain by requesting its legal office to remove such ambiguities by way of reformulation of the relevant parts thereof.
- Council's legal office is dealing with the various possibilities regarding the recovery of the R10million from the Trust/trustees/any other entity which may be in possession thereof.
- By way of a general remark, we advise that both Council's delegations of powers/assignment of powers to officials, as well as the NWU's donations policy are currently being revised.

We trust that you find the foregoing of assistance and reiterate that we shall gladly respond to any remaining queries which you may have.

Yours sincerely



Advocate Johan Kruger SC
Chairperson: NWU Council

CC: Prof Dan Kgwadi, Vice-Chancellor, North-West University



ABSTRACT FROM THE UNCONFIRMED MINUTES OF THE NWU COUNCIL MEETING HELD ON 19 JUNE 2015 IN THE SENATE HALL OF THE POTCHEFSTROOM CAMPUS OF THE NORTH-WEST UNIVERSITY

9.1.2 North-West Higher Education Trust (NWHET) - Gobodo Forensic Report

9.1.2.3 Resolved

Whereas the North West Higher Education Trust was established as an endowment fund with the aim of raising money by commercial investments for the North-West University and other selected higher education institutions in the North West Province, and whereby a donation of R10 million was made by the North-West University to be used as seed money to start up the Trust projects, and in the light of the decision of the Council to discontinue the activities of the Trust, Council therefore resolves as follows:

1. It is accepted that there was no improper motive on the part of Dr Eloff in donating R10 million to the Trust.
- 2.1 Council notes that the Gobodo Report and the attorneys acting on behalf of Dr Eloff respectively place different interpretations on the meaning of the relevant part of the document entitled "Policy and Schedule of Authorisation Limits" ("the Policy").
- 2.2 To the extent that the relevant part of the policy may be ambiguous or susceptible to different interpretations, the Legal Office is requested to reformulate relevant parts of the policy for Council's consideration.
3. It is acknowledged that Dr Eloff consulted widely with NWU responsible officials regarding the viability and feasibility of the NWHET initiative.
4. It is acknowledged that the Trust had been registered as such in accordance with legal requirements.
5. It is recommended that all purported projects linked to, or evolving from the Trust, be terminated with immediate effect.
6. Council
 - Noting Exco's recommendations that steps be taken to recover the full amount of R10 million from the Trust or any other entity which may be in possession thereof or with which the monies (or part thereof) had been invested;
 - Noting the contents of the letter received from attorneys Webber Wentzel dated 15 June 2015.
 - Requests the Legal Office to advise Council regarding the viability and acceptability of the suggested way forward as set out in the letter.
7. Council mandates Exco to, based on such advice, respond to the said letter.
8. Council accepts that the matter is highly confidential and that Council must do everything in its power to prevent any further negative publicity.

End