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URGENT

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Dear Sirs

MR ROBERT GUMEDE AND THE MAIL & GUARDIAN – COMPLAINT TO THE OMBUDSMAN

- 1 The Mail and Guardian's ("**M&G**") continuous harassment and vindictive behaviour towards our client, Mr Robert Gumede ("**Gumede**"), makes a mockery of the Press, the Press Council and the **M&G's** supposed professionalism. The latest actions of

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the **M&G's** journalists in relation to **Gumede** raise questions of professional legitimacy; at what point does legitimate investigative journalism become illegitimate and extreme harassment-by-journalism. The issue of journalistic legitimacy is particularly relevant in view of the fact that at least one of the **M&G** journalists involved in its relentless pursuit of adversarial information about **Gumede** has been paid by a business adversary who owes **Gumede** approximately R45m and has skipped the country.

- 2 Whilst the **M&G** has on the face of it undertaken to and published an apology to **Gumede**, Mr Adriaan Basson ("**Basson**") and Mr Sam Sole ("**Sole**") have, for approximately the last 2 months, been relentlessly contacting **Gumede's** business associates, ex-employees of Guma, ex-partners and ex-wife desperately seeking any negative information on **Gumede**, whether true or false, to enable the **M&G** to try to vindicate itself and demonstrate that the Press Ombudsman ("**the Ombudsman**") and the Appeals Panel were wrong in ordering it to publish an apology to **Gumede**. We have been advised that their conduct has in certain instances been *threatening and intimidatory*. Not only is such conduct unlawful but the **M&G** journalists are given the latitude by their newspaper to conduct themselves in this manner under the guise of the freedom of the press with no serious ramifications. Any attempt to defend oneself is seen as an act of repression against the press. Is it the press's *modus operandi* to threaten and intimidate people for information even when the journalists have been advised on many occasions that the information that they are looking for does not exist? It seems, as appears more fully hereunder, that the said journalists are trying to fabricate information for vindictive and malicious journalism. Moreover, at least one of these journalists has **accepted money** from a person whose **proven lies** the **M&G** have relied upon and published as facts and for which it has been criticised and has had to apologise at least twice, including the apology from the editor, Mr Nic Dawes ("**Dawes**").
- 3 This complaint has arisen as a result of reporting that has for years been unfair and malicious and once again the **M&G** is preparing to write articles motivated not by any inherent news value but by a long-standing malicious desire to damage **Gumede's** reputation, and a more recent desire to extract revenge for having had to publish two embarrassing apologies. This bias, vindictiveness and victimisation, and an intended repetition of allegations, is in breach of Article 1 of the Press Code.
- 4 We understand the process of lodging a complaint with the **Ombudsman** pursuant to the publication of an offensive article. This is a unique situation. In similar circumstances, one would complain to the **editor** of a newspaper however in this case, **the M&G editor Nic Dawes** himself is part of the vindictive attack against **Gumede** in that he printed an editorial as part of such attack. He has also, as you will see from our letter dated 27 October 2010 that he has been obstructive and denied access to information. **Gumede** therefore has no option but to refer the matter back to the **Ombudsman** to consider and address this very serious complaint. It cannot be constitutional nor can it be justified that a person can only lodge a complaint about an offensive article after it has been written and published i.e. once the damage has been done. The **Ombudsman**, the Press Council and SANEF who, we believe, have allowed the **M&G** to "*get away*" with its conduct, should now intervene in this matter.
- 5 As a result of these facts the **M&G** has some pertinent questions of its own to answer of which the most important question is whether the **M&G** is indulging in the nefarious practice for **pay for play**. If so, the **Ombudsman** must then logically also explain how an innocent business person should protect his reputation when

he is under groundless and incessant attack by a newspaper one of whose journalists has received money from his business adversary? What protection is there for members of the public who accede to the self regulation process but is failed by the Press Council's failure to rein in its member who acts with impunity against decisions of the Ombudsman.

- 6 In order to place this comment in context we have had to expand on the history of the matter that has been the **M&G's** focus and therefore make no excuse for the length of this letter as the content must be considered by the reader in order to understand the **M&G's** unethical conduct.
- 7 Three complaints have been lodged by **Gumede** against the **M&G** with the **Ombudsman** since October 2008. Two of these complaints have been adjudicated and 2 rulings have been handed down in favour of **Gumede** including a ruling by the Appeals Panel chaired by Judge Ralph Zulman. The third complaint has to date never been acknowledged nor addressed by the **Ombudsman** but we read in the previous edition (*22 October 2010*) of the **M&G** that **Dawes** has withdrawn and apologised to **Gumede** and the **Press Council** for his defamatory editorial. However this retraction and apology was published by **Dawes** the past week without us having agreed to the content as the complainant.
- 8 Notwithstanding that the **M&G** was ordered to publish apologies to **Gumede** for its false, malicious and misleading articles, it continues to harass **Gumede** as though there is a **personal vendetta** against him by **Basson**, **Sole**, **Dawes** and the **M&G** itself. These are serious allegations that we make which we can substantiate and support.
- 9 At the first hearing before the **Ombudsman** on 6 March 2009, evidence was produced that **Basson** had previously attended an insolvency inquiry ("*the inquiry*") into the liquidation of Applied Card Technologies (*Pty*) Ltd ("**ACT**"), a company founded and managed by Johan Sterenberg ("*Sterenberg*"), a citizen of the United Kingdom. The **inquiry**, chaired by Advocate Subel SC, ran over the period 2002 to 2006. Notwithstanding that it was a private **inquiry** (*instituted by Sterenberg*), it had been converted by the Master, at **Gumede's** instance, into a public **inquiry** as **Gumede** had nothing to hide as a non-executive director of **ACT** which was managed by **Sterenberg** as **CEO**.
- 10 **Basson** (*then working for Beeld newspaper*) attended the **inquiry** and wrote numerous offensive articles about **Gumede** before and during the **inquiry**. Evidence was given at the **inquiry** to demonstrate that **Sterenberg**, a disgruntled ex-shareholder of **ACT**, had committed unlawful transactions including transfer pricing and mismanagement. When the focus was on **Sterenberg's** questionable conduct and attempt to extort money from Telkom (*see paragraph 21.3 hereunder*) he abandoned the **inquiry** and, we believe, absconded. Even when the evidence at the **inquiry** demonstrated **Sterenberg's** personal use of **ACT's** funds (*invested by Guma, Gumede's company previously Guma Smart Card Technologies (Pty) Ltd*) leaving **ACT** insolvent, **Basson** ignored that evidence and chose to create negative articles about **Gumede** and **Guma**.
- 11 **Basson** and **Sole** continued to reflect **Gumede** negatively in the press but chose to write nothing negative about their source **Sterenberg**. This clearly demonstrates a bias by **M&G**, **Basson** and **Sole**. **Gumede** believes that one of the reasons the **M&G**, **Sole**, **Basson** and **Dawes** are supporting **Sterenberg** is because **Gumede** is on record that he supports the ANC financially.

- 12 The record of the **inquiry** reflects that **Sole** of the **M&G** was the first journalist to write defamatory articles based on **Sterenberg's** false and unsubstantiated allegations from 2001 and 2003. **Sole**, who wrote malicious articles, personally attended the initial sittings of the **inquiry** where **Gumede** and others gave evidence. In spite of the evidence presented, **Basson** and **Sole** continued to write anti-**Gumede** articles full of unfounded and biased allegations. **Gumede** believes that **Sterenberg** was using the **inquiry** to create negative media about him in order to pressurise **Gumede** to pay **Sterenberg** who was attempting to extort R10 million from **Gumede**. After 4 years **Sterenberg**, who had initiated and funded the **inquiry**, abandoned it when he was being cross-examined by **Gumede's** counsel on issues which reflected poorly on him, including mismanagement, transfer pricing, using ACT funds for personal expenses such as to pay for his daughters horses, fraud and lastly on the attempt to extort R27 million from Telkom as well as the alleged bribery of **M&G's Sole** (*a journalist*).
- 13 In spite of the evidence presented, during a four year **inquiry**, which exonerated **Gumede**, **Basson** resurfaced several years later at the **M&G** and published 2 defamatory articles about **Gumede** in October and November 2008 without disclosing that he had historical personal knowledge of the **ACT inquiry** and the soured relationship between **Sterenberg** (*his source*) and **Gumede**. His omissions and false allegations resulted in him writing 2 misleading and false articles for which he was severely criticised in the **Ombudsman's** rulings.
- 14 **Gumede** lodged a complaint against **Basson** and the **M&G** and both the **Ombudsman** and the **Appeals Panel** chaired by Judge Ralph Zulman found in **Gumede's** favour and ordered that the **M&G** apologise to **Gumede**. The serious criticism of **Basson** by the **Ombudsman** in its decision reflects a journalist who showed lack of judgment and bias in writing articles to attack **Gumede** without evidence or foundation. A journalist should be independent and unbiased.
- 15 We do not expand on these issues as these are the subject of the various complaints in which **Gumede** has successfully proven that **Basson** and the **M&G** wrote defamatory and false articles with the intention of harming **Gumede's** reputation.
- 16 It is however necessary for us to give some background to the **M&G**, **Basson's** and **Sole's** history with **Gumede** and **Sterenberg** in the "**Sterenberg**" saga to enable the reader to appreciate the context of this letter and the extent of their vindictiveness. **Gumede** supports the role that the press has in society and is on record confirming his support. In his response to **Basson's** questions as part of his preamble, **Gumede** in October 2008 said:

"...I fully support the freedom of the press that have to report without bias or favour as enshrined in our Constitution."
- 17 However, the press is expected to publish information that is truthful, unbiased, accurate and in the public interest. The **M&G**, as a member of the Press Council, is also expected to comply with the **Ombudsman** and the **Appeals Panel's** rulings, which it failed to do, with no sanction or penalty.
- 18
 - 18.1 **Guma** purchased 26% of the shares in **ACT** in August 2000 for the sum of R30 million. Payment of approximately R25 million was made to **Sterenberg**, who was the major shareholder and CEO of **ACT**. **Sterenberg** was to retain the money (*R30m*) in **ACT** for its operational costs but the

money was misused and disappeared within 8 months. **Gumede** was a non-executive director of **ACT** and only attended one board meeting after **Guma** acquired the 26% shares in August 2000 – August 2001.

- 18.2 The balance of the shares i.e. 74% was sold by **Sterenborg** to **Guma** on the *4th August 2001* for R5 million because of the declined state of **ACT**. R2 million was paid within 48 hours of signing the sale agreement, R1 million was to be paid by **ACT** and the balance of R2 million was to be paid to **Sterenborg** on delivery of *inter alia* audited financials, management accounts, tax clearance certificates, debtors' books, etc which **Sterenborg** was never able to produce as a result of his mismanagement of **ACT**. As a result of **Sterenborg's** failure to meet this condition, the final payment of R2 million was withheld.
 - 18.3 Without **Gumede's** knowledge, Brait Merchant Bank Ltd ("**Brait**"), a financier of **ACT** threatened to liquidate **ACT** as a result of its and **Sterenborg's** failure and breaches to pay its instalment sale agreements as well as short term loan. **Gumede** was unaware of this threat or loans. On *2 August 2001* **Brait** cancelled the instalment sale agreements in writing and demanded immediate payment of all outstanding R17m from **ACT** and informed **Sterenborg** that they have begun a liquidation action of **ACT**. This written demand was sent directly to **Sterenborg** at his home. Two days later, **Sterenborg** sold the remaining 74% shares to **Gumede** without disclosing **Brait's** cancellation of the instalment sale agreement and its R17m payment demand and threatened liquidation action. This deliberate deceit amounts to fraud. Immediately after **Guma** purchased the 74% shareholding. **Brait** instituted a liquidation application which was ultimately successful in spite of **Gumede's** vigorous opposition at great cost from September 2001 to February 2002 in order to save his investment of R25m and save jobs. **ACT** was finally liquidated on the 13th February 2002.
 - 18.4 **Gumede** and **Guma** invested and lost approximately R30 million (*including legal costs*) in an insolvent company by opposing the liquidation application by **Brait** and the **ACT** landlord.
 - 18.5 A month after the final liquidation of **ACT**, in March 2002, Telkom issued a tender for the supply of smart card based telephone cards. **Guma**, then GITA, tendered for the supply as **ACT** was already liquidated. GITA through its subsidiary **Guma** was awarded the Telkom tender in July 2002, due to its value proposition (*5 months after the final liquidation of ACT*).
 - 18.6 **Sterenborg** through the **M&G** and **Sole** waged a malicious media campaign from early 2002.
- 19 The relationship between **Sterenborg**, **Sole** and **Basson** is suspicious. Furthermore the timing of certain events, articles and the payments to **Sole** are also suspicious. We deal further therewith in paragraph 22.4 hereunder.
- 20 We now expand on the litigation.
- 21
- 21.1 Four frivolous legal actions were instituted by **Sterenborg** but they were all settled or decided in favour of **Gumede** and **Guma** with costs by the South Gauteng High Court. An action for damages flowing from unfulfilled profit warranties was instituted by **Guma** and judgment was granted in its favour. The outstanding indebtedness by **Sterenborg** and his wife to **Guma** is

approximately *R45 million*. **Sterenborg** absconded from the country and returned to the UK and **Gumede** and **Guma** have not received a cent to date. **Gumede** has appointed investigators who have finally tracked down **Sterenborg** in the UK but he has no traceable assets. **Gumede** and **Guma** have been unable to recover any part of the R45 million debt.

21.2 **Gumede** and **Guma** have expended huge amounts in legal costs to defend **Sterenborg's** false allegations and groundless actions which, from inception, had no prospect of success. This is exacerbated by **Basson**, **Sole** and the **M&G** writing false articles.

21.3 To add fuel to the fire, **Basson**, **Sole** and the **M&G** supported a dishonest businessman who ran away from his debts after fraudulently selling an insolvent company to a black businessman, pocketing R24 million cash and attempting to extort money from Telkom in the sum of approximately R27 million as well as from **Gumede** for R10 million. This attempted extortion of Telkom is on the record at the **inquiry**. Now that would have been news in the public interest. We would have expected to see articles being written with the following headlines :-

- *Extortion of Telkom and Gumede;*
- *Missing Millions In Transfer Pricing Fraud;*
- *Fraudster Sells Insolvent Company and Pockets R24 Million;*
- *Suspicious Payments Made to M&G Journalist in Trade Off;*
- *M&G Support Fugitive from Justice.*

21.4 **Sterenborg**, who was sued by his legal teams namely Werksmans and Darryl Ackerman Attorneys as a result of his failure to pay for legal services, gained the confidence of the **M&G**, **Basson** and **Sole** who sided with **Sterenborg** and published articles highlighting **Sterenborg's** unfounded allegations.

22

22.1 **Sterenborg** instituted a claim for R2 million (*which was withheld for his failure to supply financials, etc*) against **Gumede**. **Sterenborg**, who was confident that he had the support of **Sole**, demanded a settlement of R3 million which **Gumede** turned down as bizarre and an act of extortion. After further negative publicity against **Gumede**, **Sterenborg** then increased his settlement demand from R3 million to R10 million to settle a claim of R2 million.

22.2 **Sterenborg** used the negative media attack on **Gumede** to try to extract a R10 million settlement which was R8 million more than his R2 million claim. **Gumede** believes that is why **Sterenborg** was so confident in his extortion attempt. It appears that **Sterenborg** continues to use the **M&G** for his personal gain.

22.3 The **M&G** and **Basson** finally admitted that **Sterenborg** was their sole anonymous source upon which they had relied to write the defamatory articles in 2008 regardless of their knowledge of the history of **ACT** and the acrimony in the "**Sterenborg**" saga.

22.4 The transcript of the **inquiry** records that **Sterenberg** made **certain payments** to **Sole** who subsequently wrote defamatory articles about **Gumede**. We attach copies of the **ACT** bank statement and an **ACT** cheque as Annexures "A" and "B" reflecting certain payments to **Sole**. At no time did **Sole** inform the public that he has a relationship with **Sterenberg**, let alone that he received payments from **Sterenberg** and **ACT**, at a time when the company was technically insolvent. It appears that **Sole** was paid from monies invested by **Gumede** and **Guma**. The questions are:

- why was he paid monies by **ACT** and **Sterenberg**?
- what services did **Sole** provide to a **technically insolvent ACT**?
- did **Sole** disclose these payments to the editor of the **M&G**?
- if not, why not?
- and if he did, what was the editor's response?
- is it ethical for a journalist to receive monies in his personal account from a source of allegations?

22.5

22.5.1 For years, since 2003, **Gumede** has known of the suspicious (*payola*) payments made to **Sole** by **Sterenberg** using **ACT** funds invested by **Gumede**, yet **Gumede** - for the sake of media freedom and its protection did not publicise this information.

22.5.2 During the **inquiry and cross examination**, **Sterenberg** was asked about the various payments and he confirmed that they were paid to **Sole** who also attended the **inquiry** with him and wrote negative articles about **Gumede**.(See extract from the *inquiry transcript attached hereto marked "C"*).

22.5.3 These payments have never been properly explained. **Sterenberg** however confirmed during his cross-examination that he never invested his own money as **ACT** was funded by **Brait** (*R17 million loan*), **Gumede/Guma** (*R25 million investment*) and Standard Bank (*R3 million loan*) – all South Africans who lost millions. More importantly it was proven that **Sterenberg** mismanaged **ACT** into bankruptcy and misappropriated monies through unlawful transfer pricing transactions using his UK companies, etc.

22.5.4 Interestingly, the **M&G**, **Sole**, **Basson** and editors including **Dawes** have never bothered to ask **Sterenberg** what happened to all the millions of rands invested by **Gumede** and **Guma** nor have they ever published articles about the strong evidence produced against **Sterenberg** at the **inquiry** including evidence of extortion. Neither have they published the Gumede victories against Sterenberg.

- 22.5.5 **Basson** and **Sole** ignored the testimony given by **Sterenborg** under oath under the **inquiry** (*most of which was in their presence*) and wrote negative articles about **Gumede**. In particular it is interesting that **Basson** did not focus on the evidence against **Sterenborg** but, when **Gumede** answered questions from **Sterenborg's** advocate about what investment **Sterenborg** had made in **ACT**, he used township lingo showing zero investment (*see attached article as annexure "D"*). **Basson** diverted attention from the evidence against **Sterenborg** and deliberately focused on the unfortunate use of township lingo instead of the startling evidence produced against **Sterenborg**, including the attempt of extortion against Telkom.
- 22.6 For several years **Basson** and **Sole** have harassed and continue to harass and victimise **Gumede** for no apparent reason. **Gumede** believes that **Basson, Sole** and the **M&G's** conduct is motivated by a personal vendetta against **Gumede**. **M&G** is also angry in that the ANC is using the **Gumede M&G** case as a reference to a failure of self regulation and the need for a media tribunal. They are using their opportunities and abilities as journalists to carry out their vendetta in support of **Sterenborg**. Of late, **Basson, Sole** and **Dawes** have formed an axis of vindictiveness against **Gumede** since the **Ombudsman** ordered the **M&G** and in particular an embarrassed **Dawes** to retract his editorial and to apologise to him.
- 22.7 Not only is **Gumede** exasperated by **Basson, Sole, Dawes** and the **M&G's** vindictive behaviour but so is the writer. The writer has personally been involved in the **Sterenborg** saga since July 2001. It appears that **Basson, Sole, Dawes** and the **M&G** are unable to accept their defeat in having to publish an apology to **Gumede** (*which apology was nonetheless repudiated by the M&G*). They are desperately trying to vindicate themselves and in the process harming **Gumede's** reputation and causing him to suffer damages.
- 22.8 **Basson** and **Sole** have approached numerous persons over the last 2 months (*we do not identify them all herein although we have all their details and written evidence*) including Mr Tebogo Khaas ("**Khaas**") and Mr Nhlanhla Mhlongo ("**Mhlongo**").
- 22.9 **Mhlongo** was interviewed at his home in Durban by **Sole** on 18 August 2010. It is reported that **Mhlongo** explained to **Sole** that he does not know of any criminal activity by **Gumede**. **Sole** is reported to have been asked by **Mhlongo** why he and the **M&G** are pursuing **Gumede** after so many years and he responded that **Gumede** has embarrassed and caused harm to the **M&G** that has affected their funders and the newly established AmaBhungane as a result of the apology ordered by the **Ombudsman** and Appeals Panel chaired by Judge Zulman.
- 22.10 **Basson** e-mailed **Khaas** a list of 16 questions about **Guma** and **Gumede**. Surprisingly most of the questions deal with evidence embodied in the transcript of the **inquiry**. **Basson** and **Sole** showed their support for **Sterenborg** by attending the **inquiry** and writing articles against **Gumede**. On one occasion **Basson** and **Sole** respectively arrived at the hearing with **Sterenborg**. This was subsequent to the payments made to **Sole** more fully referred to in paragraph 22.4 above.

- 22.11 **Khaas** was briefly employed at **ACT** prior to its liquidation during 2001. **Khaas** was one of **Sterenborg's** pawns after he was dismissed. **Khaas** stole and handed confidential copies of **Guma's** documents to **Sterenborg** which documents **Khaas** had unlawfully removed from **Guma**. **Guma** successfully applied at the Supreme Court for an Anton Pillar Order (*search and seizure*) against **Khaas** and recovered several hard copies and electronic files from his home which he had unlawfully possessed. In spite of having been subpoenaed, knowing that his testimony would have been torn to pieces and that he would have committed perjury, **Khaas** never appeared to testify at the **inquiry**. Nine years later **Basson** is still scratching around to find some disgruntled individual to say anything negative about **Gumede** so that he can publish offensive articles.
- 22.12 It is clear from these questions that this is a further fishing expedition if not a witch-hunt by **Basson** and the **M&G** who continue to harass and victimize **Gumede**. They do so under the guise of public interest and press freedom.
- 23
- 23.1 The **M&G**, **Basson**, **Sole** and **Dawes**, in their desperation and possibly in cahoots with **Sterenborg** are attempting to rehash **Sterenborg's** so called criminal allegations against **Gumede** that the police and NPA have on 3 occasions rejected and declined to prosecute without even questioning **Gumede** or bringing the charges to his attention.
- 23.2 Should the **M&G** and **Basson** have new criminal related allegations, they should respect the legal process and lay criminal charges with the SAPS. The **M&G** is not the police and should not behave like an extension of the Hawks or the National Prosecuting Authority. They have no right to threaten anybody with criminal charges in exchange for information, as they have done. South Africa is not a Banana Republic where the rule is trial by media.
- 24 **Gumede** has been a reader of the **M&G** and has admired its track record in exposing wrongs objectively especially under some previous editors, but the **M&G** of today has lost its ethics and reputation as being an unbiased and investigative newspaper.
- 25 The **M&G** has rendered the self-regulation process of the **Ombudsman** toothless by repudiating rulings and making a mockery of the system and has insulted all honest and hardworking ethical journalists who pursue the truth without fear, favour or bias.
- 23 The **M&G** should respect the Constitution of our country as it does not respect the self-regulatory process.
- 24 The **Ombudsman** and the Appeals Panel on the one hand believed that **Dawes** was communicating with us in a *bona fide* attempt by the **M&G** to publish an apology to **Gumede**. At the time that the **M&G** and **Dawes** were addressing the **Ombudsman** under the pretext of wanting to apologise to **Gumede** they were simultaneously scheming behind the backs of the **Ombudsman**, the Appeals Panel and **Gumede** to further victimise **Gumede**.
- 25 Major newspapers like the Sunday Times, Business Day, the Star, etc have printed front page apologies when they were found to be in the wrong and have not followed this with the vindictive campaign against the complainants, yet the **M&G's**

position is not one to eat humble pie and now finds fault with the **Ombudsman's** decisions and wants to prove the Ombudsman wrong. This creates the impression that the **M&G** believes that it is the only custodian of investigative newspaper and that no one, including the **Ombudsman** nor the **Press Council**, is above it.

- 26 It is interesting that the **M&G** newspapers have never published any positive story on **Gumede** or his companies. An example being the recent share acquisition by **Gumede** in the ailing Lions Rugby franchise which was covered by all major local and international newspapers as a positive story for the country which the **M&G** did not publish.
- 27 Even a happy and positive event such as **Gumede's** recent wedding was turned into sensationalistic news by the **M&G** which wrote a defamatory article about the wedding. Its journalist, Evelyn Groenink, was an uninvited guest as she registered under another guest's access code. The **M&G** has lost respect for privacy.
- 28 We are therefore respectfully requesting the **Ombudsman** to investigate the journalistic investigative practices of the **M&G, Dawes, Sole** and **Basson** in regard to their persistent harassment of **Gumede**, taking account of the evidence already presented by us and any further evidence that may come to light and to make a finding about the legitimacy of these practices and the protections available to **Gumede** against such nefarious and persistent harassment without foundation and for no good reason.
- 29 In addition, should we not get a written undertaking by 12h00 on Friday 5 November 2010 that **Basson, Sole, Dawes** or any other journalist at the **M&G** will immediately desist from harassing **Gumede**, our instructions are to institute legal proceedings against the **M&G, Sole, Dawes** and **Basson** for damages as we are losing confidence in self regulation through the **Ombudsman**, the Press Council and SANEF as the **M&G** has proven its disdain for the **Ombudsman's** self-regulatory process.
- 30 We invite the **Ombudsman** and the Press Council to view the **M&G, Dawes, Basson and Sole's** conduct in a very serious light and to give it the appropriate sanction if the integrity of the Press Council is to be retained. The **M&G** escaped unsanctioned in January when it disregarded the Press Council's rulings. Its conduct is an embarrassment to the public, the media and the country and to the fact that **Dawes, Sole** and **Basson** are award winning investigative journalists but who seek to play outside the rules set by the Press Council. We also invite the **Ombudsman** to investigate these payments by inviting the journalists to produce *inter alia* their correspondence, bank accounts, itemised cell phone records and school payments as we believe that **Sole's** children attend Crawford private College in Kwa-Zulu Natal and would want to know if **Sterenborg** has paid for **Sole's** children schooling.
- 31 The supporters of the proposal for a media appeals tribunal are indeed fuelled by the actions of the **M&G, Basson, Sole and Dawes**.
- 32 It appears that **Gumede** is not alone in his criticism of the **M&G**. We attach hereto as annexure "E" a document setting out some of the comments that appeared on the **M&G's** online site on 22 and 23 September 2010.
- 33 The current victimisation of **Gumede** is happening at the same time that the media, SANEF and Press Council, including the **M&G**, wants to demonstrate the fairness

of the **Ombudsman** process and the freedom of the press. What about **Gumede's** constitutional rights?

- 34 We have not copied **Basson** on this letter as we understand that he has moved to the City Press.

Yours faithfully

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