



**Disciplinary Hearing outcome
for Ms Yakhe Kwinana
March 2023**



Disciplinary Committee (DC) Decision: Yakhe Kwinana (March 2023)

SAICA ID: 03257201

Case No: 03/22

The Disciplinary Committee made the following decisions in respect of the Charges brought against the Respondent (the heading to each charge constitutes a broad overview of said charge and is not the full detail as set out in the Charge Sheet):

Charge 1: **Relating to the Respondent's involvement in enforcing the "set-aside" policy by South African Airways SOC Limited ("SAA")**

The DC found the Respondent guilty of an offence as contemplated by By-law 34.10 and 34.12 of the 2011 By-laws and of sections 100; 110; 120 and 130 of the SAICA Code of Professional Conduct (2006).

Charge 2: **Dealing with the Respondent's conduct in relation to Swissport**

The DC found the Respondent guilty of an offence as contemplated by By-law 34.10 and 34.12 of the 2011 By-laws and of sections 100; 110; 120 and 130 of the SAICA Code of Professional Conduct (2014).

Charge 3: **Relating to the Respondent's conduct in seeking to terminate the LSG Skycheffs catering contract**

The DC found the Respondent guilty of an offence as contemplated by By-law 34.2; 34.10 and 34.12 (with the exclusion of dishonesty) of the 2011 By-laws and of sections 100; 110; 120 and 130 of the SAICA Code of Professional Conduct (2006).

Charges 4 and 5: **Dealing with the Respondent's conduct in relation to JM Aviation South Africa (Pty) Ltd and Janipath (Pty) Ltd**

The DC found the Respondent guilty of an offence as contemplated by By-law 34.10 (and in the alternative By-law 34.2) and 34.12 of the 2011 By-laws and of sections 100; 110; 120 and 130 of the SAICA Code of Professional Conduct (2006).

Charge 6: **Relating to the receipt of an amount of R4.3 million by the Respondent**

The DC found the Respondent guilty of an offence as contemplated by By-law 34.10 and 34.12 of the 2011 By-laws and of sections 100; 110; 120 and 130 of the SAICA Code of Professional Conduct (2006 and/or 2014).

Charge 7: **Relating to payments received from Zanospark (Pty) Ltd, a company in which the Respondent was a director**

The DC found the Respondent guilty of an offence as contemplated by By-law 34.10 (and in the alternative By-law 34.2) and 34.12 of the 2011 By-laws and of sections 100; 110; 120 and 130 of the SAICA Code of Professional Conduct (2006).

Charge 9: **Relating to attempts by the Respondent to appoint Nkonki Incorporated, an auditing firm as SAA's sole auditors notwithstanding the absence of any tender process.**

The DC found the Respondent guilty of an offence as contemplated by By-law 34.10 (and in the alternative By-law 34.2) and 34.12 of the 2011 By-laws and of sections 100; 110; 120 and 130 of the SAICA Code of Professional Conduct (2006).

Charge 10: **Relating to the Respondent's conflict of interest in the appointment of PricewaterhouseCoopers ("PwC") as joint auditors to SAA and her failure to disclose Kwinana & Associates' relationship with PwC and the financial benefits it received as a result thereof**

The DC found the Respondent guilty of an offence as contemplated by By-law 34.10 (and in the alternative By-law 34.2) and 34.12 of the 2011 By-laws and of sections 100; 110; 120 and 130 of the SAICA Code of Professional Conduct (2006).

Charge 11: **Relating to fees that Kwinana & Associates had received in respect of services that it had rendered to the Passenger Rail Agency of South Africa ("PRASA") and the misrepresentation of Kwinana & Associates' annual turnover to either PwC or SARS**

The DC found the Respondent guilty of an offence as contemplated by By-law 34.10 (and in the alternative By-law 34.2) and 34.12 of the 2011 By-laws and of sections 100; 110; 120 and 130 of the SAICA Code of Professional Conduct (2006).

Charge 12: **Dealing with the Respondent's dishonesty in relation to what she had disclosed to the Organisation Undoing Tax Abuse (OUTA) in respect of whistle-blower reports in contrast to what the Respondent had subsequently conveyed to the Zondo Commission**

The DC found the Respondent guilty of an offence as contemplated by By-law 34.10 and 34.12 of the 2011 By-laws and/or paragraph 4.2.5 and 4.2.6 of the 2020 By-laws and of sections 100; 110; 120 and 130 of the SAICA Code of Professional Conduct (2006 and/or 2018).

Charge 13: **Relating to the Respondent's testimony at the Zondo Commission**

The DC found the Respondent guilty of an offence as contemplated by paragraph 4.2.6 (and in the alternative paragraph 4.2.2) and paragraph 4.2.5 of the 2020 By-laws and of sections 100; 110; 120 and 130 of the SAICA Code of Professional Conduct (2020).

Charge 14: **Relating to the Respondent's lack of corporate governance and her intervention in operational matters at SAA and South African Airways Technical SOC Limited ("SAAT")**

The DC found the Respondent guilty of an offence as contemplated by By-law 34.10 (and in the alternative By-law 34.2) and 34.12 of the 2011 and/or 2016 By-laws and of sections 100; 110; 120 and 130 of the SAICA Code of Professional Conduct (2006 and/or 2014).

No Finding was made by the DC in respect of Charge 8 as the Charge was withdrawn.

Sanctions imposed by the DC

1. The DC was of the view that the Respondent was not a fit and proper individual to be a member of the profession and that she should be excluded from membership of SAICA with immediate effect;
2. A fine of R300 000 (three hundred thousand rand) per charge was imposed in respect of Charge 3 and Charge 9;
3. A fine of R500 000 (five hundred thousand rand) per charge was imposed in respect of Charge 1; Charge 2; Charge 4; Charge 5; Charge 6; Charge 7; Charge 10; Charge 11; Charge 12; Charge 13 and Charge 14;
4. Publication in Accountancy SA and on the SAICA website of the Respondent's name, a brief description of the offences she had been found guilty of and the penalty imposed on her;
5. Save for the costs incurred by SAICA in relation to security services for the hearing, the Respondent is to bear all of SAICA's costs in respect of the proceedings for this matter.