



ADJUDICATION NO: 30/A/2026

NAME OF PROGRAMME: CARTE BLANCHE

DATE AND TIME OF BROADCAST: 17 MAY AT 19:00

BROADCASTER: MULTICHOICE CHANNEL 101 AND CATCH UP

1ST COMPLAINANT: SOUTH AFRICAN BOARD FOR SHERIFFS ('THE SABFS')

2ND COMPLAINANT: ADVOCATE LETHUKUTHULA MARK MORGAN, IN HIS CAPACITY AS CHAIRPERSON OF THE SABFS

3RD COMPLAINANT: ADVOCATE LETHUKUTHULA MARK MORGAN, IN HIS PERSONAL CAPACITY

COMPLAINT SUMMARY

The complaint concerns balance, right of reply and dignity.

APPLICABLE CLAUSES

SUBSCRIPTION CODE

Sub-clause 28.2.2

Comment must be an honest expression of opinion and must be presented in such manner that it appears clearly to be comment, and must be made on facts truly stated or fairly indicated and referred to.

Clause 28.3.1

In presenting a programme in which controversial issues of public importance are discussed, a licensee must make reasonable efforts to fairly present opposing points of view either in the same programme or in a subsequent

programme forming part of the same series of programmes presented within a reasonable period of time of the original broadcast and within substantially the same time slot.

Clause 28.3.2

A person whose views are to be criticised in a broadcasting programme on a controversial issue of public importance must be given a right to reply to such criticism on the same programme. If this is impracticable, however, an opportunity for response to the programme should be provided where appropriate, for example in a right-to -reply programme or in a pre-arranged discussion programme with the prior consent of the person concerned.

Clause 28.4

Insofar as both news and comment are concerned, broadcasting licensees must exercise exceptional care and consideration in matters involving the private lives, private concerns and dignity of individuals, bearing in mind that the rights to privacy and dignity may be overridden by a legitimate public interest.

The corresponding clauses in the Online Code are Clauses 10.2, 11.1 & 11.2 and 12.1

ADJUDICATION

[1] A complaint was lodged with the BCCSA against Multichoice, Channel 101, regarding a Carte Blanche programme that was broadcast on 17 May 2026. The programme investigated allegations of misconduct against the Chairperson of the South African Board of Sheriffs.

[2] **The complaint reads as follows:**

“COMPLAINT IN TERMS OF THE BCCSA'S CODE OF CONDUCT FOR SUBSCRIPTION BROADCASTING SERVICE LICENSEES

Complainant 1: South African Board for Sheriffs ('the SABFS'), a statutory body established by section 7 of the Sheriffs Act 90 of 1986, represented herein by Herold Gie Attorneys.

Complainant 2: Advocate Lethukuthula Mark Morgan, in his capacity as Chairperson of the SABFS, represented herein by Herold Gie Attorneys.

Complainant 3: Advocate Lethukuthula Mark Morgan, in his personal capacity, represented herein by Attorneys Lionel Murray Schwormstedt & Louw.

Respondent: M-Net (a subscription broadcasting service of Electronic Media Network (Pty) Ltd, part of the MultiChoice group), holder of a subscription broadcasting

service licence and a listed signatory to the BCCSA's Code of Conduct for Subscription Broadcasting Service Licensees ('the Code').

Broadcast complained of: *Carte Blanche*, insert titled "*Sheriff Shambles*", first broadcast on M-Net on Sunday 17 May 2026, and thereafter made available on the respondent's subscription on-demand service (DStv Catch Up) for approximately one month following the broadcast, until it expired from that service.

This complaint is dispatched on the letterhead of Herold Gie Attorneys, who act for Complainants 1 and 2 and are the lodging attorneys of record for the joint complaint. Lionel Murray Schwormstedt & Louw act for Complainant 3 (Adv Morgan in his personal capacity) but support this complaint as a complainant, as confirmed in their letter of concurrence annexed hereto (Annexure I).

This complaint is dispatched on the letterhead of Herold Gie Attorneys, who act for Complainants 1 and 2 and are the lodging attorneys of record for the joint complaint. Lionel Murray Schwormstedt & Louw act for Complainant 3 (Adv Morgan in his personal capacity) but support this complaint as a complainant, as confirmed in their letter of concurrence annexed hereto (Annexure I).

This is a revised complaint. The original complaint was lodged by email on 26 June 2026. On the same day the Registrar advised that the BCCSA Tribunal has previously found that the news clauses of the Code do not apply to *Carte Blanche*, and invited the complainants to revise the complaint before it is forwarded to the respondent for a response. This revised complaint is submitted in response to that invitation and replaces the complaint lodged on 26 June 2026.

1. Standing and time limits

- 1.1 The complainants have a direct and substantial interest in the relief sought. The SABFS is the statutory body referred to in the broadcast; Adv Morgan is the Chairperson of the SABFS, and is, in his personal capacity, the natural person identified by name and image throughout the broadcast, and the subject of the imputations summarised in paragraph 3 below.

Standing of the SABFS

- 1.2 The respondent contends, in correspondence, that the SABFS has no standing to complain because the insert concerns Adv Morgan personally. The contention is misdirected. A complaint under the comment and balance provisions of the Code (clauses 28.2.2 and 28.3.1) does not depend on the complainant being the person defamed. Those provisions protect the public interest in fair comment and in the fair presentation of opposing points of view on controversial issues of public importance. The SABFS is the regulator whose governance and Fidelity Fund are the subject of the insert, and it has a direct interest in the fair and balanced treatment of what was broadcast about it. The SABFS accordingly has standing on those clauses. The respondent's position is, in any event, inconsistent. Having denied that the SABFS has any standing, it invites the SABFS, in the same letter, to provide a response it will consider broadcasting (its letter of 5 June 2026, Annexure L, paragraphs 7 and 8). That invitation confirms the very interest that the respondent disputes.
- 1.3 The Respondent is bound by and must comply with the Code in that it is a member of the National Association of Broadcasters of Southern Africa (NAB). (See Article 5 of the Code and section 54 of Electronic Communications Act No. 36 of 2005).

Standing of the Chairperson

- 1.4 The right-of-reply provision (clause 28.3.2) is pleaded by Adv Morgan in his capacity as Chairperson, as the office-holder whose conduct in that office was criticised and to whom the purported right of reply was directed.

Standing of Adv Morgan in his personal capacity

- 1.5 Adv Morgan is, in his personal capacity, the natural person identified by name and image and the subject of the imputations summarised in paragraph 3. The dignity provision (clause 28.4) and the right-of-reply provision (clause 28.3.2) are pleaded by him in his personal capacity, as the individual whose dignity was engaged and who was entitled to a fair opportunity to answer the allegations made against him.

Time limits

- 1.6 The complaint is in time. Rule 2.1 of the BCCSA Rules of Procedure requires a complaint to be lodged not later than thirty 'Days' after the date of the broadcast, or thirty 'Days' after the date the content was made available online. Rule 1.6 defines 'Day' or 'Days' to mean business days, the computation excluding Saturdays, Sundays and public holidays, and excluding the first Day and including the last Day. The insert was broadcast on Sunday 17 May 2026. The thirtieth business day thereafter is Monday 29 June 2026. The original complaint was lodged by email on 26 June 2026, before that date.
- 1.7 The 'Criteria for a complaint' page on the Commission's website refers, in one place, to 'thirty calendar days'. That page is an informal summary for the assistance of complainants. It does not employ the defined term and it cannot displace the Rules of Procedure, which govern the lodging period. The operative period is the thirty business days fixed by Rule 2.1 read with Rule 1.6.
- 1.8 Rule 2.1 also lets the thirty-day period run from the date the content was made available online. The insert was placed on the respondent's on-demand service (DStv Catch Up) on the broadcast date, and it stayed there for about a month before it was removed. The online period therefore starts on the same date as the broadcast, so it ends on the same deadline, 29 June 2026, and the original complaint was in time on this basis as well.
- 1.9 To the extent that this revised complaint is regarded as late, the position is as follows. It is submitted after 29 June 2026 only because the Registrar invited a revision on 26 June 2026, before the complaint had been forwarded to the respondent. The revision re-pleads the complaint on the clauses that the Commission applies to investigative programmes. It raises no new incident and seeks no new relief. If the Commission considers the complaint, or this revision, to be late for any reason, the complainants ask it to condone the delay for good cause under Rule 2.5. The parties were in pre-complaint correspondence until 8 June 2026, the complaint required coordination between the complainants' two firms, and this revision was made at the Registrar's request. The revision also coincided with the courts' recess, when counsel for the complainants were less available, and arrangements had to be made for them to attend to the revision while they were away.
- 1.10 The governing question on condonation is whether it is in the interests of justice to grant it. The complainants respectfully submit that it is. The delay is short and fully explained, no prejudice is caused to the respondent by it, and the complaint

raises an important issue of broadcasting standards on which the complainants enjoy good prospects.

- 1.11 The pre-complaint correspondence is annexed: the letter of demand of 26 May 2026 (Annexure J), the respondent's reply of 29 May 2026 (Annexure K) and the respondent's reply of 5 June 2026 (Annexure L). The letter of demand sought wider relief, including a retraction, an apology, take-down and damages. Those remedies are pursued separately and are not sought here; this complaint is confined to the broadcasting-standards remedies within the Commission's powers, namely a correction, a response and a fine. To the extent the letter of demand framed any allegation differently from this complaint, this complaint reflects the complainants' considered and current position.

2. The broadcast: a summary

- 2.1 The broadcast presented itself as an investigation into "startling allegations made by whistleblowers that sheriff positions are up for sale". It named the SABFS and Adv Morgan as the targets of the allegations and conveyed the imputations summarised in paragraph 3 below.
- 2.2 The broadcast relied on (i) on-camera contributions from Mr Thaka Frederick Seboka and Mr Iqbal Dawood Mahomed, both former sheriffs and critics of Adv Morgan; (ii) a report referred to but not produced on air; (iii) an affidavit purportedly deposed to by Mr Lucky Mashaba; and (iv) a recital of the essence of Adv Morgan's written responses of 12 May 2026.

3. The imputations conveyed

- 3.1 The broadcast conveyed, of and concerning the complainants:
 - 3.1.1 that sheriff positions are "up for sale" and that Adv Morgan personally is selling them;
 - 3.1.2 that "R55 million" is "missing from the Fidelity Fund" under Adv Morgan's chairmanship;
 - 3.1.3 that Adv Morgan engineered the early removal of Mr Seboka by manufactured complaints in order to sell the Pretoria Central office;
 - 3.1.4 that the late Mr Andrew Lesiba Shabalala was "about to publicly expose" Adv Morgan when he was murdered in April 2025, with the necessary innuendo of involvement, notwithstanding the disclaimer "there's no evidence that Morgan was involved";
 - 3.1.5 that Adv Morgan is militarising the sheriff's profession through an unauthorised engagement with a foreign state body, namely Russia's Federal Bailiff Service; and
 - 3.1.6 that Adv Morgan has caused a climate of intimidation in the profession.

4. The Code provisions engaged

- 4.1 The complaint is brought under the following clauses of the Code:
 - 4.1.1 Clause 28.2.2: comment must be an honest expression of opinion and must be presented in such manner that it appears clearly to be comment, and must

be made on facts truly stated or fairly indicated and referred to ('the fair-comment clause');

- 4.1.2 Clause 28.3.1: in presenting a programme in which controversial issues of public importance are discussed, a licensee must make reasonable efforts to fairly present opposing points of view, either in the same programme or in a subsequent programme forming part of the same series of programmes presented within a reasonable period of time of the original broadcast and within substantially the same time slot ('the balance clause'). In *Patel v M-Net* (Case 05/2025, paragraph 8) the Tribunal treated this balance requirement, which it cited as clause 28.3.3, as the applicable clause for a programme of this kind;
- 4.1.3 Clause 28.3.2: a person whose views are to be criticised in a broadcasting programme on a controversial issue of public importance must be given a right to reply to such criticism on the same programme, and if this is impracticable, an opportunity for response to the programme should be provided where appropriate, for example in a right to reply programme or in a pre-arranged discussion programme with the prior consent of the person concerned ('the right-of-reply clause'); and
- 4.1.4 Clause 28.4: insofar as both news and comment are concerned, broadcasting licensees must exercise exceptional care and consideration in matters involving the private lives, private concerns and dignity of individuals, bearing in mind that the rights to privacy and dignity may be overridden by a legitimate public interest ('the dignity clause').

5. Particulars of contravention

- 5.1 The facts in paragraphs 5.1.1 to 5.1.3 below are pleaded as the foundation for the fair-comment, balance and right-of-reply grounds that follow.
 - 5.1.1 The central premise of the insert, that Adv Morgan personally controls and sells sheriff appointments, mischaracterises the statutory scheme. Under the Sheriffs Act 90 of 1986 the power to appoint sheriffs and acting sheriffs vests in the Minister (sections 2(1) and 5). The SABFS issues fidelity fund certificates and oversees the profession; it does not appoint sheriffs. This was capable of verification and was put on record in Adv Morgan's written response of 12 May 2026 (see Annexure "C" hereto).
 - 5.1.2 The insert displayed and dramatized bank deposit slips and conveyed, by innuendo, that cash deposited into a company of which Adv Morgan is a director represented the proceeds of selling sheriff posts. The innuendo is false, and its factual premise is wrong.
 - 5.1.3 The deposit slips shown reflect payments into the account of Buscor, a bus operator. Adv Morgan is not a director of Buscor. He is a director of Movo Kuchyne, which operates the ticketing for Buscor: members of the public pay cash for their tickets at the ticket office, and Movo Kuchyne banks the day's takings into the Buscor account in the ordinary course. No deposit slip reflecting a payment into a Movo Kuchyne account was shown in the insert. The deposits shown are ordinary ticketing proceeds, not the proceeds of any sale of sheriff posts. Before broadcast, Adv Morgan denied the allegation and disputed the authenticity of the affidavit on which it rested (see Annexure "C" hereto).

- 5.2 Balance (clause 28.3.1). The insert discussed a controversial issue of public importance, and the balance clause required the broadcaster to make reasonable efforts to fairly present the opposing point of view. It failed to do so. The broadcaster acknowledged that Mr Mashaba had repudiated the affidavit, but nevertheless presented that repudiation only to cast doubt on it, and did not fairly disclose the supporting sworn evidence in its possession, namely:
- 5.2.1 the sworn repudiation by Mr Mashaba of the affidavit attributed to him, made in a SAPS statement of 5 April 2025 (OB 12/04/2025, Rietgat/Soshanguve), in which he declared that the affidavit of 16 January 2025 was not made by him and that the signature is not his; and
- 5.2.2 the WhatsApp exchange in which Mr Mashaba, shown the signature page, replied "Definitely not mine". The reporter stated on air, of Mr Mashaba's repudiation: "But we are not convinced. The retraction affidavit was signed just three days after Shabalala was gunned down." That is not a fair presentation of the opposing point of view. It is editorial endorsement of disputed material to the exclusion of contrary sworn evidence in the broadcaster's possession, and a failure to make the reasonable efforts that the balance clause requires.
- 5.2.3 The failure of balance goes further. Adv Morgan declined an on-camera interview, but he engaged with the substance of the allegations in writing. He answered the broadcaster's questions one by one in his written responses of 12 May 2026 (Annexure C), he identified the persons whose conduct he said should be investigated, and he twice asked that his responses be published in full. The broadcaster was also in possession of the SASS and SANAPS endorsements, which supported Adv Morgan's position, and it did not fairly reflect them in the insert.
- 5.2.4 The present complaint is distinguishable from *De Beer v M-Net* (Adjudication 22/A/2025) and *Patel*. In both of those matters the subject, like Adv Morgan, declined an on-camera interview and instead gave written responses. But in those matters the Tribunal found no breach because the broadcaster had repeatedly offered an in-person interview and had duly broadcast the written responses it received (*De Beer*, paragraphs 7 and 8, pages 37 to 38; *Patel*, paragraphs 10 and 12, pages 39 to 40). The distinction is therefore not that Adv Morgan engaged and those subjects did not. It is what the broadcaster did with the responses it was given. Here the broadcaster recited only the essence of Adv Morgan's written responses, withheld the sworn evidence in its possession that contradicted the central allegation, and never produced to him the report on which the insert relied. That is not a broadcaster that broadcast the subject's answer and offered him an interview. It is a broadcaster that failed to present the balance material it already had.
- 5.3 Right of reply (clause 28.3.2). The broadcaster purports to have afforded a right of reply, but it did not honour one. A report relied on in the insert was never produced to Adv Morgan for comment before broadcast, and he could not answer material he was not shown. He answered the questions that were put to him, and twice asked that his responses be published in full. Yet the insert recited only the essence of his responses, in a manner that left the allegations standing. In *Patel* the Tribunal dismissed the right-of-reply complaint because, although the complainant had declined an interview, her written responses were duly broadcast (paragraphs 10 and 12, pages 39 to 40). Adv Morgan also declined an on-camera interview and answered in writing, but, unlike in *Patel*, his responses were not duly broadcast: the insert recited

only their essence, and a report relied on in the insert was never put to him for comment.

- 5.4 Fair comment (clause 28.2.2). If the respondent contends that the insert was comment rather than news, clause 28.2.2 was not met. The imputations that sheriff positions are for sale, that R55 million is missing from the Fidelity Fund, and that Adv Morgan was implicated in the murder of Mr Shabalala were framed as fact, not as comment, and were not made on facts truly stated or fairly indicated. The fair-comment defence is not available where the underlying facts are not truly stated.
- 5.5 Dignity (clause 28.4). The treatment of the Shabalala-murder sequence, despite the disclaimer, and the framing of the affidavit and its retraction were calculated to injure Adv Morgan's dignity and to bring the SABFS into disrepute. They showed neither the exceptional care that clause 28.4 requires nor any justification in legitimate public interest.
- 5.6 The respondent's offer. Without admission, the complainants record that the respondent made an offer, which is stated to be in good faith and without obligation, to broadcast on air that there is no evidence to link Adv Morgan to the murder of Mr Shabalala, alongside "the potential broadcast of the essence of SABFS", response (see a letter from the respondent's attorneys of 5 June 2026, Annexure "L hereto"). The offer does not answer the complaint. It is confined to the murder issue and leaves the accuracy, distortion, verification, opposing-views and dignity contraventions unaddressed. A bare statement that there is no evidence linking Adv Morgan to the murder also repeats the very juxtaposition that conveyed the innuendo, and does not cure it – rather it in fact aggravates the malignment of Adv Morgan. The complainants accordingly proceed with the complaint, having declined the offer by their open letter of 24 June 2026 (Annexure M).

6. Relief sought

- 6.1 The complainants ask the Commission to:
 - 6.1.1 uphold the complaint;
 - 6.1.2 direct the respondent to broadcast a correction and a summary of the Commission's findings, in an equivalent slot, in terms of the Commission's sanctioning powers;
 - 6.1.3 direct the respondent to broadcast a concise response by the complainants in terms of the Commission's sanctioning powers;
 - 6.1.4 impose a fine on the respondent, up to the maximum of R100,000 provided for in section 15.5 of the BCCSA Constitution, as the Commission considers appropriate; and
 - 6.1.5 grant such further or alternative relief, including any supplementary order, as the Commission deems fit.

7. Annexures

- 7.1 This revised complaint relies on the same annexures as the original complaint lodged on 26 June 2026. For ease of reference, the bundle filed with this complaint is:
 - 7.1.1 Annexure A: Verbatim transcript of the broadcast of 17 May 2026.
 - 7.1.2 Annexure B: SABFS Media Statement of 17 May 2026.

- 7.1.3 Annexure C: Adv Morgan's written response to the broadcaster of 12 May 2026.
- 7.1.4 Annexure D: SAPS statement of Mr Lucky Mashaba of 5 April 2025 (OB 12/04/2025; Rietgat / Soshanguve).
- 7.1.5 Annexure E: WhatsApp exchange in which Mr Mashaba denied the disputed signature.
- 7.1.6 Annexure F: Confirmatory affidavit of Adv L M Morgan, in his capacity as Chairperson of the SABFS (Second Complainant).
- 7.1.7 Annexure G: Confirmatory affidavit of Adv L M Morgan, in his personal capacity (Third Complainant).
- 7.1.8 Annexure H: Sheriffs Act 90 of 1986, sections 2, 5, 7, 9 and 26.
- 7.1.9 Annexure I: Letter of concurrence from Lionel Murray Schwormstedt & Louw confirming that they act for Complainant 3 (Adv Morgan in his personal capacity) and concur in this complaint.
- 7.1.10 Annexure J: Letter of demand from Herold Gie Attorneys in respect of the broadcast, dated 26 May 2026.
- 7.1.11 Annexure K: Letter from Webber Wentzel (attorneys for the respondent) to Herold Gie Attorneys, dated 29 May 2026.
- 7.1.12 Annexure L: Letter from Webber Wentzel (attorneys for the respondent) to Herold Gie Attorneys, dated 5 June 2026.
- 7.1.13 Annexure M: Open letter from Herold Gie Attorneys to Webber Wentzel declining the respondent's offer and confirming that the complainants proceed with this complaint, dated 24 June 2026."

[3] The Broadcaster responded as follows:

"INTRODUCTION

- 1 This is the respondent's response to the revised complaint dated 6 July 2026. The complaint concerns an insert broadcast on *Carte Blanche* on M-Net on Sunday 17 May 2026 and thereafter available on DStv Catch Up. The complaint is brought under clauses 28.2.2, 28.3.1, 28.3.2 and 28.4 of the Code of Conduct for Subscription Broadcasting Service Licensees ("**the Code**").
- 2 For the avoidance of doubt and for purposes of clarity, the insert is titled "Who Shot the Sheriff?" and was broadcast under that title. The insert was, however, promoted on social media as "Sheriff shambles". A copy of the broadcast accompanies this response, together with a transcript of the studio introduction and studio conclusion ("**the outro**") that framed the insert on air.¹
- 3 The respondent's answer, in summary, is the following:
 - 3.1 The insert reported, in attributed terms, allegations made by named and unnamed members of the sheriffs' profession against Adv Morgan concerning the administration of that profession and of the Fidelity Fund. Those are controversial issues of manifest public importance.

¹ The insert transcript is Annexure A to the complaint. The respondent's Annexure **MN1** contains the studio outro, which the complaint does not address.

- 3.2 Adv Morgan was afforded a full right of reply on two occasions. He was invited to an on-camera interview, with a summary of the allegations to be addressed, and urged to accept it. He declined within two hours. He was then, on 12 May, furnished, in writing, with each of the detailed allegations in issue, and told that the essence of any written response would be reflected on air. He responded in writing on the same day. The essence of that response was broadcast, both in the insert and in a detailed outro devoted substantially to his answers, and his responses were published on the Carte Blanche website.
- 3.3 The opposing point of view was fairly presented. Viewers heard Adv Morgan's denials on every allegation now complained of; they heard no less than the Minister of Justice say that Adv Morgan is "above board" and that she has received no substantive complaint against him; they saw the affidavit in which Mr Mashaba disavowed the affidavit relied on in the insert; and they were told of the endorsements received from two voluntary sheriffs' associations.
- 3.4 The complaint, in substance, is that the broadcaster did not adopt the complainants' assessment of the material, air Adv Morgan's responses in full, or excise its own editorial judgment. The Code requires none of those things, and the Commission has repeatedly held that it will not sit as editor.
- 4 In the remainder of this response, the following issues are addressed:
- 4.1 the parties and standing;
 - 4.2 time limits;
 - 4.3 the applicable clauses;
 - 4.4 the broadcast and what it conveyed;
 - 4.5 the right-of-reply engagement;
 - 4.6 the four grounds of complaint;
 - 4.7 the respondent's offer; and
 - 4.8 the relief sought.
- 5 This response is made without any admission of liability and without prejudice to the respondent's rights in the defamation proceedings which the Third Complainant has threatened in his personal capacity (in correspondence sent by his attorneys on 8 June 2026; see also Annexure I to the complaint where the reference to damages was again made). The respondents' rights in those proceedings are expressly reserved.

THE PARTIES AND STANDING

- 6 The respondent is Electronic Media Network (Pty) Ltd, which broadcasts the M- Net channel as a subscription broadcasting service. Carte Blanche is produced for the respondent by Combined Artistic Productions (Pty) Ltd. The respondent answers for the broadcast, and this response is delivered on its behalf.
- 7 The respondent maintains the position recorded in its attorneys' letter of 5 June 2026 (Annexure L to the complaint): the insert concerns Adv Morgan, and it reflects on the SABFS only in so far as Adv Morgan is its Chairperson. Every one of the imputations pleaded in paragraph 3.1 of the complaint concerns Adv Morgan. The complaint identifies no statement in the broadcast about the SABFS as an institution, distinct from its Chairperson, which is said to have been unfair or unbalanced. Whether or not the SABFS is competent to invoke clauses 28.2.2 and 28.3.1, its complaint accordingly adds nothing to that of Adv Morgan, and it stands or falls with his.

- 8 The complainants suggest (complaint, paragraph 1.2) that the respondent's position on standing is inconsistent with its invitation to the SABFS to furnish a response for possible broadcast. It is not, and the attempt to argue otherwise is opportunistic. That invitation was made expressly without any obligation, in good faith, in an attempt to address the complainants' stated grievance without litigation. The offer was not an admission of a contravention, of an imputation against the SABFS, or of anything else. In any event, the complainants declined it.
- 9 The splitting of Adv Morgan into two complainants, in his official and personal capacities, likewise adds nothing of substance. He is one person. He was extended one right of reply, which he exercised. The respondent answers the complaint on its merits in respect of all three complainants.

TIME LIMITS

- 10 The complainants devote paragraphs 1.6 to 1.10 of the complaint to time limits, and ask for condonation to the extent that the revised complaint of 6 July 2026 is late. The original complaint was lodged on 26 June 2026 under the news provisions of the Code. The Registrar advised on the same day that the Commission has previously held that the news clauses do not apply to Carte Blanche, and invited a revision. The revised complaint followed on 6 July 2026.
- 11 The respondent does not oppose condonation for the lodging of the revised complaint, and it engages with the revised complaint on its merits. It records only that the complaint now stands or falls on the four clauses actually pleaded in the revised complaint. The revision was necessary for the reasons given by the Registrar.

THE APPLICABLE CLAUSES AND THE APPLICABLE APPROACH

- 12 The complaint is brought under four clauses of the Code:
 - 12.1 clause 28.2.2, which requires that comment be an honest expression of opinion, clearly presented as comment, and made on facts truly stated or fairly indicated and referred to;
 - 12.2 clause 28.3.1, which requires a licensee, in presenting a programme in which controversial issues of public importance are discussed, to make reasonable efforts to present opposing points of view fairly, either in the same programme or in a subsequent programme in the same series within a reasonable period and substantially the same time slot;
 - 12.3 clause 28.3.2, which entitles a person whose views are to be criticised in such a programme to a right to reply on the same programme or, where that is impracticable, to an appropriate opportunity for response; and
 - 12.4 clause 28.4, which requires licensees to exercise exceptional care and consideration in matters involving the private lives, private concerns and dignity of individuals, bearing in mind that the rights to privacy and dignity may be overridden by a legitimate public interest.
- 13 Three settled principles frame the application of those clauses to an investigative programme of this kind.

- 13.1 First, the clauses fall to be applied consistently with the broadcaster's right to freedom of expression under section 16 of the Constitution, which includes freedom of the press and the freedom to receive and impart information and ideas. Investigative journalism on the conduct of public institutions and public office-bearers (such as Adv Morgan) lies at the core of that protection.
- 13.2 Secondly, the Commission does not sit as editor. It has held that its task is not to consider the merits or demerits of viewpoints, but to decide whether a reasonable effort was made to present opposing points of view, judged in the context of the broadcaster's freedom of expression, which includes a free discretion to edit a programme.² A mere difference of opinion as to how the editor should have placed or packaged material does not found a transgression of the Code.³
- 13.3 Thirdly, the balance and right-of-reply clauses impose obligations of reasonable effort and fair opportunity. They do not guarantee a complainant the treatment which he would have chosen for himself. Where a subject declines an interview and elects to respond in writing, the Commission has held that the broadcaster discharges its obligation by conveying the essence of the response; the subject who declines the opportunity offered is, in the Commission's words, the author of his own misfortune.⁴
- 14 The complainants' own authorities are to the same effect. *De Beer v M-Net* and *Patel v M-Net* hold that there is no breach where the broadcaster offered an interview and duly broadcast the written responses it received (complaint, paragraph 5.2.4). As appears below, that is exactly what happened here.

THE BROADCAST: WHAT IT WAS AND WHAT IT ACTUALLY CONVEYED

- 15 Carte Blanche is the respondent's flagship investigative current-affairs programme. It has performed that function for over three decades. The insert in question investigated allegations made by members of the sheriffs' profession. The allegations concerned the administration of the profession and of the Fidelity Fund, a fund which has the purpose of protecting the public.
- 16 The subject matter could hardly be of greater public importance. Sheriffs are the enforcement arm of the courts. The SABFS is their statutory regulator. The Fidelity Fund exists to compensate members of the public whose money is stolen. The First Complainant is a statutory body; the Second and Third Complainants are its Chairperson, a senior public office-bearer who has sat as an acting judge. Allegations that positions in that profession are sold, and that the regulator's funds are misapplied, are allegations that the public is entitled to hear investigated, and that a broadcaster is entitled, and indeed bound, to investigate.
- 17 Paragraph 3.1 of the complaint pleads six imputations. The complaint's central characterisation, repeated in paragraph 5.4, is that these were "framed as fact". The

² *Jacobz v M-Net (Carte Blanche)*, BCCSA Case No 11/2018 at para 12; *MXIT Lifestyle v M-Net*, BCCSA Case No 47/2006 at para 5.

³ *MXIT Lifestyle* at para 5; *SA Dental Association v M-Net*, BCCSA Case No 37/2003 at para 19.

⁴ *Busch v M-Net (Carte Blanche)*, BCCSA Case No 01/2017 at para 12.

broadcast speaks for itself, and the characterisation is wrong. The allegations were consistently attributed, sourced, and presented as allegations under investigation:

- 17.1 On the sale of positions (imputations 3.1.1 and, in part, 3.1.6): the insert opened by stating that “We’ve investigated startling allegations made by whistleblowers: that sheriff positions are up for sale”, and that Adv Morgan “is now accused of selling sheriff positions”. The allegation is attributed to whistleblowers in the very sentence that introduces it. Mr Seboka and Mr Mahomed then made their claims on camera, in their own names and their own words. The voice-over describing Mr Mahomed’s position stated that he “shares Seboka’s view that Morgan has been secretly selling off sheriff appointments”. It was therefore described as a view, held by identified critics, not a fact.
- 17.2 On the R55 million (imputation 3.1.2): the statement was made by Mr Mahomed on camera, in terms which attributed it further: “His own board members pointed out that there’s 55 million rand missing from the Fidelity Fund.” The insert did not assert that finding in the broadcaster’s own voice. Nor was the figure conjured from nothing: the SABFS’s own published annual report for 2024/25 reflects an amount of some R55 million receivable from a related party, recorded as unsecured, interest- free and repayable on demand.⁵ Adv Morgan’s answer, that the SABFS and the Fund received clean and unqualified audits during his term, was broadcast in the outro.
- 17.3 On the removal of Mr Seboka (imputation 3.1.3): the voice-over stated that “he says Morgan - who he claims wanted to sell his practice to the highest bidder - tried to push him out early” (emphasis added). The insert then stated, accurately and in the broadcaster’s own voice, that it was the Justice Ministry that “had the power to remove Seboka”. Adv Morgan’s denial, and his counter-allegations against Mr Seboka and Mr Mahomed, were summarised in the outro, together with the fact that those two gentlemen had refuted the counter-allegations.
- 17.4 On the Shabalala sequence (imputation 3.1.4): the voice-over stated, in one breath, that “there’s no evidence that Morgan was involved” and that “sources tell us Shabalala was about to publicly expose him”. A second voice-over stated, in Adv Morgan’s favour, that “Oupa Shabalala was under investigation before he was murdered”. His response, that Mr Shabalala was under investigation for illegal activities and that he had no dealings with or ill feelings towards him, was broadcast in the outro. We return to this sequence in the discussion of clause 28.4 below.
- 17.5 On the Russian Federal Bailiff Service (imputation 3.1.5): the voice-over stated only that Adv Morgan was “seen here signing an agreement with counterparts from Russia’s Federal Bailiff Service”, and that “his critics say he’s attempting to militarise how local sheriffs operate”. The insert did not state that the engagement was unauthorised. That adjective appears in the complaint, not in the broadcast. Adv Morgan’s response, that the agreement was not unauthorised, that it forms part of a longstanding international knowledge exchange, and that he is “trying to professionalise, not militarise, sheriffs”, was broadcast in the outro.
- 17.6 On the climate of intimidation (imputation 3.1.6): the insert reported the broadcaster’s own experience, that “there were indeed people too nervous to talk to

⁵ SABFS Annual Report 2024/25, page 92 (“Receivable to related party”: R55 457 182) and page 107 (related-party note: receivable of R55 457 182, “unsecured, interest free and payment is on demand”).

us”, and Mr Seboka’s on-camera statement that “there is a lot of fear within the profession”. Adv Morgan’s answer, quoted verbatim in the outro, was that far from instilling a culture of fear, he “just refuses ‘to be controlled by corrupt and unscrupulous individuals’”.

- 18 The reasonable viewer of this insert, viewed as a whole and with the outro that immediately followed it, would have understood precisely what was being conveyed: that serious allegations had been made against Adv Morgan by named and unnamed members of the profession; that Carte Blanche had investigated them and considered them worthy of publication; that Adv Morgan denied all of them; that the Minister of Justice supported him; and that two voluntary associations in the profession had endorsed Adv Morgan and the Board. The complainants are simply wrong when they accuse the broadcast of framing guilt as fact. The piece reflects investigative journalism doing what it exists to do.

THE RIGHT-OF-REPLY ENGAGEMENT: THE FULL CHRONOLOGY

- 19 The engagement between Carte Blanche and Adv Morgan is central to three of the four grounds, and it is set out once, chronologically. The correspondence is largely annexed to the complaint itself (Annexure C), and the complainants nowhere dispute the chronology that follows.
- 20 On 20 April 2026, the producer of the insert, Ms Joy Summers, invited Adv Morgan by email to an on-camera interview to be recorded on 24 April 2026, with an indication of availability requested by 22 April 2026. The invitation outlined the allegations and stated, among other things: “We believe it is crucial that the public hears your perspective directly and the fairest way to do this is an on camera interview”, and “we strongly urge you to take this opportunity to clarify your position on camera.”
- 21 Adv Morgan replied in under two hours. He declined the interview, and advised that Carte Blanche should “rather report the allegations to law enforcement authorities without the necessity of me having to conduct an interview on untested [sic] and unsubstantiated allegations”. Ms Summers responded to urge Adv Morgan once again to agree to an interview, and to offer an alternative date. She also offered a written response, the essence of which would be reflected. Adv Morgan replied on 21 April 2026, again rejecting Ms Summers’ request for an on-camera interview and stated that he would respond to questions and/or allegations in writing.⁶
- 22 On 12 May 2026, Ms Summers wrote to Adv Morgan again. Given his refusal of an interview, she offered him the opportunity to respond briefly in writing, and attached a document setting out the allegations for his response. The email stated expressly: “Please note that due to the nature of television, we cannot accommodate long written responses onscreen, and will reflect the essence of your comments.”
- 23 The attached document set out thirteen detailed allegations. They included every allegation now complained of: the alleged sale and franchising of sheriff positions (allegation 1); the alleged orchestrated removal of Mr Seboka in order to sell his office (allegation 2); the cash deposits described in the Mashaba affidavit, identified expressly as deposits “into private accounts linked to Movo Kuchyne (of which you are a director) and Buscor” (allegation 3); the R55 million said to have been removed from the Fidelity Fund (allegations 5 and 6); the Russian agreement and the militarisation concern (allegation 8);

⁶ The invitation and Adv Morgan’s reply are Annexure **MN2** to this response.

the Shabalala allegation, including the timing of Mr Mashaba's retraction (allegation 11); and the culture- of-fear allegation (allegation 13). Nothing material to the insert was withheld from him.

- 24 Adv Morgan responded on the same day, at length and ad seriatim.⁷ Three features of that response bear noting:

24.1 He denied each allegation. On several, he gave substantive answers: the appointment power vests in the Minister (allegation 1); his predecessor also had bodyguards, and his own protection followed a threat assessment (allegation 4); the SABFS and the Fund received clean audits (allegations 5 and 6); the Russian relationship is a budgeted knowledge-exchange arrangement predating his appointment (allegation 8); Mr Shabalala was under investigation and he bore him no ill will (allegation 11).

24.2 On the deposit-slips allegation, allegation 3, he attacked the authenticity of the Mashaba affidavit and attached Mr Mashaba's disavowing affidavit and the WhatsApp exchange. He described a fraud case, and advanced extensive counter-allegations against Mr Seboka, Mr Mahomed and others. These included allegations concerning their family members and their professional integrity. What he did not do, anywhere in that response, was advance the explanation now pleaded in paragraph 5.1.3 of the complaint: that the deposits reflect the banking of bus-ticket takings by Movo Kuchyne into Buscor's account in the ordinary course. We return to the significance of this below.

24.3 He asked twice that, if his written responses were published or aired, they be published "in full and not selectively", together with his previous responses.

- 25 On 14 May 2026, Carte Blanche received letters concerning the Board from two voluntary sheriffs' associations, the South African Sheriff Society and the South African National Association of Progressive Sheriffs.

- 26 The insert was broadcast on 17 May 2026. Within it, viewers were told that "Advocate Mark Morgan declined our request for an interview, instead suggesting we refer any allegations to law enforcement agencies", and that "in a detailed written response, he later denied all wrongdoing". The insert further reported, in Adv Morgan's favour, the Minister's insistence that she had received no substantive complaint against him, her statement on camera that everything regarding Adv Morgan's conduct as chairperson is "above board", and the fact that he had been reappointed by the Minister on her department's recommendation.

- 27 Immediately after the insert, in the same programme, the studio presenters devoted the outro substantially to the opposing point of view. Because the complaint simply and impermissibly ignores the outro, we quote its material portions:

27.1 "In writing, Mark Morgan insists that he doesn't have the power to appoint sheriffs and denies selling sheriffs' positions. He denies removing Thaka Seboka from office and claims that Seboka, Iqbal Mahomed, and others are attempting to remove him for

⁷ Ms Summers' further email of 12 May and Mr Morgan's written responses to the allegations are Annexure **MN3** to this response.

nefarious reasons. He makes several allegations about their integrity and professionalism. Seboka and Mahomed have refuted these allegations.”

27.2 “Morgan says the Fidelity Fund and Board for Sheriffs received clean, unqualified audits during his term. He says Andrew Shabalala was under investigation for illegal activities, and he had no dealings with or ill feelings towards him. According to Morgan, the agreement with the Russian Bailiff Federation was not unauthorised and is part of a longstanding international knowledge exchange. He says he’s trying to professionalise, not militarise, sheriffs. And, far from instilling a culture of fear, he says he just refuses ‘to be controlled by corrupt and unscrupulous individuals’.”

27.3 “We also received unsolicited letters from the voluntary sheriffs’ associations saying they have ‘never picked up on any issues of governance’ at the Board for Sheriffs, describing accusations of corruption as unfounded, and expressing support for Morgan and gratitude to the board for developing the profession.”

28 In addition, both of Adv Morgan’s response letters were published on the Carte Blanche website. They were redacted only to the extent necessary to remove statements defamatory of third parties, including the counter-allegations described in paragraph 24.2 above. The respondent was under no obligation to publish the responses on its website at all, given that the responses were adequately reflected in the broadcast. Nevertheless it did so, in a form that protected the rights of the persons Adv Morgan had attacked.

29 That is the whole picture: on a matter of critical public interest, an interview offered, with a public official, Adv Morgan, strongly encouraged to participate; a refusal within two hours; every allegation put in writing; express advance notice that only the essence of a written response could be reflected on air; a same-day response received; its essence broadcast in the insert and at length in the outro of the same programme; the supporting views of the Minister and of two professional associations broadcast; and the full responses published online. The complaint must be assessed against that record.

THE FIRST GROUND: BALANCE (CLAUSE 28.3.1)

30 Clause 28.3.1 requires reasonable efforts fairly to present opposing points of view. The complainants accept, as they must, that the insert discussed controversial issues of public importance. The question is whether reasonable efforts were made. On the record set out above, they manifestly were. The complainants’ three specific contentions do not withstand scrutiny.

The Mashaba disavowal was disclosed to viewers

31 The complainants’ first contention (complaint, paragraphs 5.2 to 5.2.2) is that the broadcaster “did not fairly disclose the supporting sworn evidence in its possession”. This is a reference to Mr Mashaba’s SAPS statement of 5 April 2025 and a WhatsApp exchange in which he denied the disputed signature.

32 The premise is false. The disavowal was squarely disclosed to viewers, more than once and in more than one form:

32.1 The voice-over stated: “Then, inexplicably, three months later, Mashaba retracted his affidavit.”

- 32.2 The disavowing affidavit itself appeared on screen, and was put at the centre of the Minister's interview. The Minister, on camera, brandished the point: "It's an affidavit from him that says that that affidavit is actually fraudulent." The insert thus gave the disavowal the imprimatur of the Minister of Justice herself.
- 32.3 The programme's own scepticism about the disavowal (which they are entitled to express as a matter of editorial freedom and protected comment) was then expressed, with its reasons: "But we're not convinced. The retraction affidavit was signed just three days after Shabalala was gunned down."
- 33 The reasonable viewer therefore knew exactly what the complainants say was concealed: that Mr Mashaba had, under oath, disavowed the affidavit on which the deposits allegation rested. The complainants' real grievance is that the programme, having disclosed the disavowal, did not endorse it. This is not a grievance that the law protects.
- 34 The balance clause in the Code requires fair presentation of the opposing view, and that is what occurred. The disavowal was shown, voiced, and articulated by the Minister. What the programme added was its own editorial assessment, clearly presented as such ("we're not convinced") and grounded in facts truly stated: the disavowal was indeed signed three days after Mr Shabalala was gunned down, a fact the complainants do not dispute. Clause 28.2 of the Code expressly permits a broadcaster to comment on and criticise actions and events of public importance. The Commission has held that a presenter may express an opinion on the matter being broadcast so long as it is genuinely held and rests on facts fairly indicated.⁸ The respondent's assessment of the competing affidavits was not plucked from the air. The producer had verified the provenance of the original affidavit with more than one source, including a source with first-hand knowledge of its signing and Mr Mahomed, to whom Mr Mashaba had handed a copy in person.⁹ The source gave evidence that Shabalala was due to collaborate with a media house on an expose of Adv Morgan when he was killed. The source with first-hand knowledge of the signing of the affidavit cannot be named in this response. This is because the respondent is obliged to prevent the disclosure of his or her identity at his or her request and to protect his or her safety.
- 35 The bottom line is that there is a fundamental, and important, difference between fairly presenting opposing views – which the Code requires – and a prohibition of any commentary which is critical of the stance of the subject of reporting. The Code does not require the latter. This is because, if it did, the core content of the right to impart and receive ideas as a component of the right to freedom of expression would be stripped out of the subscription broadcast terrain. It would also undermine editorial freedom.
- 36 As to the WhatsApp exchange (complaint, paragraph 5.2.2), it added nothing to the disavowal affidavit: it is the same denial, in informal form. There is no obligation on a reporter to flight every item of cumulative material in its possession. The decision of which of two pieces of material conveying the same point is to be used is a pure exercise of editorial discretion.¹⁰ There is a further difficulty for the complainants. The exchange in question was a conversation between Mr Mashaba and Mr Mahomed. The producer

⁸ See *eNCA v Strydom and Taylor*, BCCSA Case No 14/2019 at para 14.

⁹ The respondent does not identify its confidential sources in this response, and relies on Rule 4.3 of the BCCSA Rules of Procedure, which recognises that a party is under no duty to disclose the identity of an informant.

¹⁰ See the references in footnotes 2 to 4 above.

confirmed its context with Mr Mahomed, who did not accept the denial made to him in that exchange. The complainants' contention is thus that the broadcaster was obliged to broadcast a private message, shorn of the context given by its own recipient, in order to bolster a disavowal the programme had already disclosed and whose weight it had honestly assessed. The simple position is that what the complainants appear to demand, is advocacy for one side of a disputed issue. The Code does not entitle them to that.

The SASS and SANAPS letters were reflected

- 37 The complainants' second contention (complaint, paragraph 5.2.3) is that the SASS and SANAPS endorsements were not fairly reflected. The outro quoted above disposes of this aspect of the complaint. Viewers were told that the associations had "never picked up on any issues [of] governance" at the Board, that they described the accusations of corruption as unfounded, and that they expressed support and gratitude. That is the essence of the letters, conveyed in their own words. The description of the letters as "unsolicited" was accurate, and if anything enhanced their weight: it told viewers that the support was spontaneous.

Adv Morgan's written engagement was fully and fairly presented

- 38 The complainants' third contention (complaint, paragraphs 5.2.3 and 5.2.4) is that Adv Morgan "engaged with the substance" in writing and that the broadcaster "recited only the essence" of his responses. They also complain that the broadcast "withheld the sworn evidence", and "never produced to him the report on which the insert relied". Each of these arguments is ill-conceived.
- 39 The "essence" point fails for four reasons:
- 39.1 Adv Morgan was told in advance that television cannot accommodate long written responses on screen and that the essence of his comments would be reflected. He responded on that footing. He cannot now complain that the stated and accepted basis of the engagement was honoured.
- 39.2 The essence was in fact generously reflected. The outro passages quoted in paragraph 27 above track his response point by point: the appointment power, the selling allegation, the Seboka removal, the clean audits, the Shabalala investigation, the Russian agreement, the militarisation comment, and the culture-of-fear allegation, the last in his own quoted words. Viewers were also twice told, within the insert, that he had denied all wrongdoing in a detailed written response.
- 39.3 What could not be aired (and was not required to be aired) was the balance of his response: lengthy counter-allegations against his accusers and their family members. Even so, the substance of those counter-allegations was conveyed in the outro, in neutral terms, together with the fact that Mr Seboka and Mr Mahomed refuted them.
- 39.4 Both Adv Morgan's refusal of the invitation to interview and his lengthy written response to the allegations were, without any obligation to do so, published on the Carte Blanche website, redacted only to avoid third-party defamation. Adv Morgan's demand had been that there should be publication "in full and not selectively". The Code confers no right to unedited publication of a subject's chosen text. The demand only underscores that what the complainants seek is

control of the broadcaster's output, not balance. The Commission has repeatedly declined to compel broadcasters to cede editorial control of that kind.¹¹

40 The "withheld sworn evidence" point fails on the facts, for the reasons given in paragraphs 31 to 36 above.

41 The "report" point (also pleaded as a right-of-reply point, and answered here for both purposes) fails on its own terms:

41.1 The report described at the close of the insert was invoked for one purpose only: to contradict the Minister's on-camera claim that she had received no complaints against Adv Morgan. The voice-over states: "The Minister insists she's had no complaints against Morgan. But Carte Blanche has evidence - including a detailed report from the Law Society - to contradict her claim." The report was thus deployed against the Minister's position, not to make any allegation against Adv Morgan that had not already been put to him.

41.2 The allegations that concern Adv Morgan and that feature in the insert were all put to him in the 12 May 2026 document, in detail. He answered them. A right of reply attaches to the criticism to be broadcast. The complainants, however, appear to believe that the right of reply entitles them to respond to every document in a journalist's possession. No provision of the Code obliges a broadcaster to hand over its source material, and for good reason: an obligation of that kind would imperil the protection of confidential sources, which both this Commission's procedures and the general law recognise.¹² The insert made no allegation sourced to the report that Adv Morgan had not been given a full opportunity to answer.

42 Finally on balance: the complainants' attempt (complaint, paragraph 5.2.4) to distinguish *De Beer* and *Patel* rests on the proposition that in those matters "the broadcaster had repeatedly offered an in-person interview and had duly broadcast the written responses it received", whereas here the responses were "not duly broadcast". With respect, the attempt by the complainants to distinguish *Patel* and *De Beer* is unconvincing:

42.1 The facts of *Patel* were almost identical to the present case, except that the complainant in *Patel* was described in the response as "belligerent".¹³

In all other respects, the facts were the same. The complainant declined to be interviewed on air. As in the present case, her written response was ventilated with reference to the various allegations contained in the broadcast.¹⁴ In fact, the complaints of the complainant in that matter went far beyond those of Adv Morgan, with the complainant repeatedly objecting that her responses were not published in full, or at all.¹⁵

42.2 *De Beer* is also practically identical. Notably, in *De Beer* the complainant also based her complaint, in part, on allegations which she had not made to the broadcaster in

¹¹ See *MXIT Lifestyle; SA Dental Association; Jacobz*.

¹² Rule 4.3 of the BCCSA Rules of Procedure. See *Amabhungane Centre for Investigative Journalism NPC v Minister of Justice and Correctional Services* 2021 (3) SA 246 (CC) at para 115 and *Mazetti Management Services (Pty) Ltd v Amabhungane Centre for Investigative Journalism NPC* 2023 (6) SA 578 (GJ) at paras 23-5.

¹³ See *Patel* at p 33 of the judgment where paragraph 32 of the response is quoted in full.

¹⁴ See *Patel* at para 12.

¹⁵ See the reproduction of paras 7-13 of the complainant's complaint at p 4 of the adjudication ruling.

advance of the broadcast.¹⁶ And, just as in this case, the complainant argued that her responses were “distorted or taken out of context” and she also went further by alleging that some allegations had not even been put to her.¹⁷ In almost identical language to the present complaint, the complainant in *De Beer* accused the respondent of “a one-sided and misleading portrayal of events”.¹⁸ Crucially, in rejecting the complaint, the Commission expressly pointed out that the complainant “was warned that a written response would not have the same impact as an interview and still chose to respond in writing”.¹⁹

- 43 In this case, an interview was offered and Adv Morgan was strongly encouraged to participate. The written responses were reflected in the insert, presented at length in the outro, and published online. It follows that, on the reasoning in *Patel* and *De Beer*, the complaint should be rejected.

THE SECOND GROUND: RIGHT OF REPLY (CLAUSE 28.3.2)

- 44 Clause 28.3.2 entitles a person whose views are to be criticised to “a right to reply to such criticism on the same programme”, and, where that is impracticable, to an appropriate opportunity for response.

- 45 Adv Morgan was afforded precisely that right, on the same programme, thrice over:

45.1 He was offered, twice, the primary and best form of reply, an on-camera interview in the insert itself, and was urged to accept it. He refused within two hours and was only willing to answer the allegations “at the appropriate forum” if they were reported to law enforcement. Adv Morgan therefore declined the same-programme opportunity offered to him and cannot now be heard to complain that his reply did not appear in the form which he would have preferred. On the Commission’s own jurisprudence, he is the author of that misfortune.²⁰

45.2 He was then afforded, and exercised, a written right of reply, on the express and accepted basis that its essence would be reflected. Its essence was reflected, in the insert and in the outro of the same programme, and his letters were published online.

- 46 The complaint’s contrary case reduces to two propositions: that the “essence” treatment “left the allegations standing”, and that the report was not produced to him. The second of these is answered in paragraph 41 above. The first is not a right-of-reply complaint at all. A right of reply is the opportunity to answer criticism. It is not a guarantee that the answer will persuade, or that the programme will refrain from publishing the allegations answered. The Code’s machinery exists to ensure that the subject’s answer is heard with them. It was.
- 47 The complainants’ reliance on *Patel* is again self-defeating. On their own account, the right-of-reply complaint in *Patel* failed because the complainant had declined an interview and the essence of her written responses were duly broadcast. Here, an interview was declined and the written responses were duly broadcast, in essence on air and in full

¹⁶ See the reproduction of para 15 of the complainant’s complaint at p 5 of the adjudication ruling.

¹⁷ See the reproduction of para 26 of the complainant’s complaint at p 6 of the adjudication ruling.

¹⁸ See the reproduction of para 27 of the complainant’s complaint at p 6 of the adjudication ruling.

¹⁹ *De Beer* at para 7.

²⁰ *Busch* at para 12.

(subject only to third-party redactions) online. The complainants' assertion that the responses were not "duly broadcast" simply mischaracterises the broadcast.

THE THIRD GROUND: COMMENT (CLAUSE 28.2.2)

48 The complainants plead this ground conditionally, saying: "if the respondent contends that the insert was comment rather than news" (complaint, paragraph 5.4). The premise of the ground is the assertion that the imputations were "framed as fact, not as comment, and were not made on facts truly stated or fairly indicated".

49 This characterisation is answered in paragraph 17 above. The imputations of which Adv Morgan complains were carried as attributed allegations, views and questions, with the sources identified where they were on the record, and with Adv Morgan's denials broadcast. To the extent that discrete passages of the insert constitute comment, each satisfies clause 28.2.2:

49.1 The programme's expressed scepticism of the disavowal ("But we're not convinced...") was clearly presented as the programme's own assessment. It was honestly held, for the reasons which the insert itself gave. It rested on facts truly stated: the existence of both affidavits (both disclosed on air), and the undisputed fact that the disavowal followed three days after Mr Shabalala's murder.

49.2 The interrogative framing of the deposits sequence ("So are these cash deposits the payments that Morgan is allegedly taking in exchange for lucrative sheriff posts?") posed a question which the investigation raised; it asserted nothing as fact. The facts on which it rested were truly stated. The affidavit exists, and it attaches stamped deposit slips spanning some seven months. The affidavit alleges that Mr Mashaba was directed by Adv Morgan to deposit cash into an identified FNB account held by Movo Kuchyne (Pty) Ltd, annexing the corresponding deposit slips. It also alleges that he was handed further bundles of cash at Adv Morgan's office for deposit into Buscor's account, in a series of itemised deposits totalling R1 082 826. The insert's statement that the receipts "show cash deposits made to a company of which Morgan is a director, and to another owned by a politically connected businesswoman" is an accurate account of what the affidavit and its annexures depict. Adv Morgan's directorship of Movo Kuchyne is common cause on the complaint's own terms (paragraph 5.1.3), and the affidavit alleges that the deposits were made on his instructions.

49.3 The complainants' contention that the "facts were not truly stated" rests on the explanation pleaded for the first time in the complaint. This is that the deposits were bus-ticket takings banked by Movo Kuchyne into Buscor's account in the ordinary course. Three observations must be made.

49.3.1 First, that explanation was never given to the broadcaster, although the deposits allegation, with both company names, was put to Adv Morgan squarely on 12 May 2026. The respondent cannot be faulted under clause 28.2.2, or clause 28.3.1, for failing to state "facts" that Adv Morgan chose not to advance when asked.

49.3.2 Secondly, the explanation, even taken at face value, confirms rather than refutes the facts which the insert actually stated: that Mr Mashaba, Adv Morgan's driver, made substantial cash deposits connected with companies associated with Adv Morgan. What it disputes is the inference, and the insert framed the inference as a question.

49.3.3 Thirdly, the explanation remains exactly that: an untested assertion advanced in pre-litigation correspondence and now in a complaint. That is the whole point of the fair-reporting obligations. Investigative journalism is not intended to make conclusive pronouncements, like a court of law. It is designed to ventilate matters in the public interest, present those matters fairly, and allow the public (and in many cases, law enforcement, civil society and other stakeholders) to make up its mind as to what happened. It only works when the subjects of the investigation provide countervailing evidence, if there is such evidence, in advance, so that it can be broadcast. It is, with respect, meaningless for the complainants to brandish this untested evidence after the fact.

- 50 The fair-comment ground therefore fails at every level. The imputations were not framed as fact. Such comment as the insert contained was clearly presented as comment, honestly held, and made on facts truly stated or fairly indicated. Finally, the complainants' contrary factual premise depends on material which they withheld from the broadcaster.

THE FOURTH GROUND: DIGNITY (CLAUSE 28.4)

- 51 The dignity ground is confined to the Shabalala sequence (complaint, paragraph 5.5). The complainants say that the juxtaposition of the murder with the claim that Mr Shabalala was about to expose Adv Morgan conveyed an innuendo of involvement that the disclaimer did not cure. They also say that there is "no legitimate public interest in a murder innuendo".
- 52 The sequence must first be accurately described. The voice-over stated: "In April last year, a former board member and sheriff called Andrew 'Oupa' Shabalala was murdered. Although there's no evidence that Morgan was involved, sources tell us Shabalala was about to publicly expose him." A later voice-over stated: "Oupa Shabalala was under investigation before he was murdered." The outro carried Adv Morgan's response: that Mr Shabalala was under investigation for illegal activities, and that he had no dealings with or ill feelings towards him.
- 53 Each element of that sequence was true or honestly sourced. Mr Shabalala, a former Board member, was murdered in April 2025. The respondent had information from more than one independent source that he was preparing to expose Adv Morgan publicly when he was killed. The statement that there is no evidence of Adv Morgan's involvement was volunteered by the broadcaster itself, unprompted, in the same breath.
- 54 Clause 28.4 does not prohibit all reporting that could possibly implicate a person's dignity. It requires exceptional care and consideration, and expressly recognises that privacy and dignity "may be overridden by a legitimate public interest". Exceptional care is exactly what the sequence shows:
- 54.1 The broadcaster did not allege, insinuate or invite the inference that Adv Morgan procured the murder. It reported two facts and expressly negated the inference which the complainants say arises, before any viewer could draw it.
- 54.2 It broadcast, in the same insert, the fact that cut the other way: that Mr Shabalala was himself under investigation before his death.
- 54.3 It broadcast Adv Morgan's response in the outro.

- 55 The public interest in the sequence was not merely legitimate but compelling. The murdered man was a former member of the statutory Board at the centre of the story. The timing of his death bore directly on the evidential landscape which the insert was investigating, including the disavowal signed three days later. The fact about the killing, in a story about fear and silence within a profession that enforces court orders, was not a gratuitous flourish. It was a key component of the story. The reporting of it, with an express no-evidence disclaimer and the subject's denial, was the exercise of exceptional care on the part of the respondent.
- 56 The complaint's premise, that there is "no legitimate public interest in a murder innuendo for which... there is no evidence", inverts the sequence's logic. The insert conveyed no such innuendo. Rather, it stated the absence of evidence. On the complainants' approach, a broadcaster could not report the murder of a Board member in a story about that Board at all, without contravening the Code. That is not what clause 28.4 requires, and it is irreconcilable with section 16 of the Constitution, with which the Code must be applied consistently.

THE RESPONDENT'S OFFER

- 57 Paragraph 5.6 of the complaint records, accurately, that the respondent offered, in good faith and without obligation, to state on air again that there is no evidence linking Adv Morgan to the murder of Mr Shabalala, alongside the potential broadcast of the essence of a statement by the SABFS. The complainants declined the offer in a letter dated 24 June 2026, which they have annexed as "M" to their complaint.
- 58 The complainants say that the offer "does not answer the complaint" and would in fact "aggravate" matters because a corrective statement would repeat the juxtaposition. The argument answers itself. If even a broadcast statement that there is no evidence linking Adv Morgan to the murder would aggravate the complainants' position, then no corrective broadcast could ever satisfy them. Importantly, this includes the corrective broadcasts which the complainants themselves ask the Commission to direct in paragraphs 6.1.2 and 6.1.3 of the complaint. The offer was a genuine attempt to address the only sequence of the broadcast said to engage Adv Morgan's dignity. It was made before any complaint was lodged. The respondent asks the Commission to approach the complaint taking the refusal of the offer into account, especially when considering the relief sought in paragraphs 6.1.2 and 6.1.3 of the complaint.

THE RELIEF SOUGHT BY THE COMPLAINANTS

- 59 No contravention of the Code has been shown, and the questions of correction, response and fine accordingly do not arise. Should the Commission conclude otherwise in any respect, the respondent asks that the parties be afforded the opportunity, contemplated by clause 13 of the BCCSA Constitution and Rule 3.13 of the Rules of Procedure, to make submissions in mitigation of sanction. The respondent reserves its submissions for that stage. Here, it suffices briefly to record the following:
- 59.1 The broadcast afforded the complainants' side an extensive hearing.
- 59.2 The respondent made a good-faith corrective offer before the complaint was lodged.
- 59.3 The fine the complainants seek is pleaded under a provision of the BCCSA Constitution that does not exist in the form cited (the fining power is conferred by clause 13.5 of the Constitution, not "section 15.5").

59.4 The amount claimed is in any event a maximum reserved for serious contraventions. It would be grossly disproportionate in the circumstances of this case.

CONCLUSION

60 The insert investigated allegations of the sale of public offices and the misapplication of a public-protection fund. The allegations were made by identified and confidential sources within the profession, against the chairperson of the statutory regulator. It attributed the allegations as allegations. The respondent put every one of them to Adv Morgan, and urged him to answer on camera. It accepted his written answers when he declined and told him precisely how those answers would be treated. It then treated them in precisely the way it said that it would, on air, in the same programme, and in full online. It broadcast the Minister's support for Adv Morgan, the associations' endorsements, and the sworn disavowal on which the complainants now rely. What the respondent declined to do was surrender its editorial judgment to the subject of its investigation. The Code does not require that, and the Commission has never held that it does.

61 The respondent asks that the complaint be dismissed in terms of clause 13.1 of the BCCSA Constitution."

[4] The Complainant replied as follows:

"This reply is delivered on behalf of all three complainants: the South African Board for Sheriffs ('the SABFS', first complainant) and Adv Lethukuthula Mark Morgan in his capacity as Chairperson (second complainant), represented by Herold Gie Attorneys; and Adv Morgan in his personal capacity (third complainant), represented by Lionel Murray Schwormstedt & Louw, who concur in this reply.

A. INTRODUCTION

1. This is the complainants' reply, in terms of Rule 3.3 of the BCCSA Rules of Procedure, to the respondent's response dated 20 July 2026 ('the response') to the complaint under the BCCSA's Code of Conduct for Subscription Broadcasting Service Licensees ('the Code'). It is delivered within five Days of the notification of 21 July 2026 allowing the complainants to respond and sets out the complainants' full reasons for not agreeing with the response. In terms of Rule 3.9 this reply forms part of the record to be placed before the Adjudicator or, if the matter is referred to a BCCSA Tribunal, before that Tribunal in terms of Rule 4.4.
2. The reply does not repeat the complaint, which stands. It addresses the respondent's principal contentions, corrects its errors of fact, and deals with the authorities on which it relies. Any contention in the response not expressly addressed is not admitted.
3. Three matters are recorded at the outset:
 - 3.1 the respondent does not oppose condonation for the lodging of the revised complaint (response, paragraph 11). Condonation is therefore no longer in issue;
 - 3.2 the respondent contends that the fine is '*pleaded under a provision of the BCCSA Constitution that does not exist in the form cited*', the fining power being conferred, it says, by clause 13.5 (response, paragraph 59.3). Both the 2023 and the 2025 versions of the Constitution are published on the BCCSA website, and the complainants take the 2025 version to be the one in force. Under the 2025 version, clause 13 deals with adjudications and has no clause 13.5; the fining power is

conferred by clause 15.5, as pleaded in paragraph 6.1.4 of the complaint. Under the 2023 version, the fining power is clause 13.5, in identical terms. On either version the power exists, the maximum is R100,000, and the relief sought is competent. The complaint described the clause as a *'section'*; nothing turns on that; and

- 3.3 the respondent discloses (response, paragraph 2) that the insert was in fact broadcast under the title *'Who Shot the Sheriff?'* and was promoted on social media as *'Sheriff shambles'*. The complainants accept the correction. Its significance is addressed under the dignity ground below. The broadcaster's own chosen title frames the entire insert around the murder of Mr Shabalala and the question of who procured it.

B. THE CASE THE RESPONSE DOES NOT MEET

4. The central answer of the response, repeated across its treatment of balance, right of reply and dignity, is that the complaint *'simply and impermissibly ignores'* the studio outro (response, paragraph 27). That is factually wrong. The outro appears in full in the complainants' own Annexure A, the verbatim transcript on which the complaint is founded, and the complaint pleads expressly that the insert *'recited only the essence'* of Adv Morgan's responses (complaint, paragraphs 2.2 and 5.3). The complainants have never contended that nothing of Adv Morgan's answer was broadcast.
5. The complainants' case, which the response does not meet, is that the broadcaster:
 - 5.1 withheld from viewers the sworn corroboration in its possession of the very answer it permitted Adv Morgan to make, namely Mr Mashaba's SAPS statement of 5 April 2025 (OB 12/04/2025, Rietgat/Soshanguve), in which he declared on oath that the affidavit of 16 January 2025 was not made by him and that the signature is not his, and his contemporaneous WhatsApp response, on being shown the signature page, *'Definitely not mine'*;
 - 5.2 presented the little it did disclose only to demolish it in the broadcaster's own voice: *'But we are not convinced. The retraction affidavit was signed just three days after Shabalala was gunned down'* (Annexure A);
 - 5.3 reserved for the closing seconds of the insert a new allegation, that Carte Blanche holds *'a detailed report from the Law Society'* contradicting the Minister's statement that she has had no complaints against Adv Morgan, which was never put to Adv Morgan at all; and
 - 5.4 confined the endorsements of the two voluntary sheriffs' associations to the outro, introduced as *'unsolicited letters'*, while the accusers appeared on camera, at length and unchallenged.
6. That is not compliance with clauses 28.3.1 and 28.3.2. The reply was recited in summary and then destroyed on air, its sworn foundation was withheld, and a fresh allegation was added to which no reply was ever invited. This respondent has twice been found in breach of the Code for the same failing, on this very programme: in *Diamond & Casino Retail Investments v M-Net*, Case No 17/2014, and *IsimangalisonWetland Park Authority v M-Net*, Case No 02/2016.
7. In *Isimangaliso* the Tribunal, contrasting the editorial-discretion cases on which the respondent now relies, summarised the governing principle (at paragraphs [49] and [50]):

"In Diamond, the right to editorial discretion was trumped by the duty entrenched in the Code to comment on facts truly stated or fairly indicated and referred to. The conclusion was drawn that the inclusion of material given to Carte Blanche by Mr Diamond was likely to have cast him in a light different from the negative impression created, as a person of questionable integrity. ... In this case, there was both the omission to properly research the facts and the failure to include replies where these should have been included."

8. That is this case. The response's forty pages of editorial-discretion argument do not engage with it.

C. THE STANDING OF THE SABFS (RESPONSE, PARAGRAPHS 7 TO 9)

9. The contention that the SABFS's complaint *'stands or falls'* with Adv Morgan's is wrong on the transcript. The insert told viewers that *'questions have been raised around how money from a public fund managed by the Board for Sheriffs is being spent'*, that the Fidelity Fund is *'managed by the Board for Sheriffs'*, and that *'there's R55-million missing from the Fidelity Fund'* (Annexure A). Those are institutional imputations against the statutory regulator and the Fund it administers, distinct from the imputations against its Chairperson personally. The respondent's own transcript supplies a further one, in the studio introduction, before Adv Morgan is so much as named: *sheriffs are 'regulated by a board where whistle blowers tell us all is not well. They allege corruption, jobs for sale, intimidation, and risk'* (Annexure MN1 to the response).
10. The balance and fair-comment clauses, under which the SABFS complains, protect the public interest in the fair presentation of controversial issues; they do not require the complainant to be the person defamed. The Commission's own jurisprudence recognises institutional complainants in exactly this position. In *Isimangaliso* the complainant was a statutory park authority, and the complaint was upheld at its instance; and in *South African Veterinary Council and Lester v M-Net*, Case No 42/2014, the Tribunal recorded that *'the SAVC probably had a duty to its members to file this complaint'*. The SABFS, as the statutory regulator whose governance and Fidelity Fund were the express subject of the insert, occupies the same position.
11. The inconsistency identified in the complaint also stands: having denied the SABFS standing, the respondent in the same letter invited the SABFS to furnish a statement for possible broadcast (Annexure L, paragraphs 7 and 8). The explanation now offered (that the invitation was made in good faith and without obligation) does not meet the point. The invitation acknowledges the very institutional interest which the response denies.
12. Nothing turns, finally, on the citation of Adv Morgan in two capacities, which the response dismisses as *'splitting'* (response, paragraph 9). The dignity clause protects him as an individual. The balance and right-of-reply clauses were engaged by the criticism of his conduct in office. The point has no bearing on the merits.

D. THE WITHHELD SWORN CORROBORATION (RESPONSE, PARAGRAPHS 31 TO 36)

13. The essential facts are common cause on the response's own account. The respondent admits that Adv Morgan's written response of 12 May 2026 *'attacked the authenticity of the Mashaba affidavit and attached Mr Mashaba's disavowing affidavit and the WhatsApp exchange'* (response, paragraph 24.2). The respondent thus held, before broadcast, a sworn SAPS statement, bearing a police case reference, in which the deponent of the foundational affidavit disavowed it as a forgery; and the deponent's spontaneous written denial of the signature. Neither the SAPS particulars nor the WhatsApp denial was

broadcast. What was broadcast was the bare fact of a *'retraction affidavit'*, followed immediately by the broadcaster's own verdict upon it: *'But we are not convinced.'*

14. The manner of the disclosure compounded the omission. The voice-over introduced the disavowal with the words *'Then, inexplicably, three months later, Mashaba retracted his affidavit'* (response, paragraph 32.1). There was nothing inexplicable about it. The explanation was in the respondent's hands, in sworn form, before broadcast. Mr Mashaba had stated that the affidavit was not made by him, that the signature is not his, and that he had opened a criminal case of fraud. To tell viewers that the disavowal was inexplicable was a false statement of fact, made in the broadcaster's own voice.
15. Nor was it a *'retraction'*. A retraction concedes authorship and withdraws the content. Mr Mashaba's statement denies authorship altogether. The distinction feeds the very inference the insert invited. A retraction *'signed just three days after Shabalala was gunned down'* supports the intimidation reading, while a sworn allegation of forgery supports Adv Morgan. The respondent chose the characterisation that suited the insert's thesis, and withheld the one that its own documents supported.
16. The answer offered (response, paragraph 36), that the WhatsApp exchange was *'cumulative'* and its omission *'a pure exercise of editorial discretion'*, is the very argument rejected in *Diamond*. There, Carte Blanche withheld an affidavit and a senior counsel's opinion made available to it, while broadcasting the disputed allegations with a disclaimer. The Tribunal held (at paragraph [19]):

"Mr Diamond obtained the opinion of senior counsel that he had acted within his powers. This opinion was made available to Carte Blanche – yet it was not broadcast. This omission amounts to a contravention of clause 28.2. or 28.3.2."

17. And it concluded (at paragraph [22]):

"Judged as a whole, the broadcast succeeded in unjustifiably portraying Mr Diamond as a person whose integrity is questionable. In effect, it amounts to a contravention of clause 28(4) of the Code – reputation being a facet of dignity. This result was in the main achieved by omitting to broadcast available material that was likely to have cast a different perspective on the entire matter."

18. *Diamond* also disposes of the disclaimer on which the respondent relies (*'there's no evidence that Morgan was involved'*): *'the use of the word "allegedly" did not assist Carte Blanche significantly, given the general trend of the broadcast'* that tainted the subject with dishonesty (paragraph [9]). The right of reply itself is stated at paragraph [8]. Once a person is criticised on a controversial matter of public importance, that person has a right of reply, and *'[i]f such a reply is made available to the broadcaster, it must be broadcast'*.
19. The claim that the editorial verdict was *'verified'* with confidential sources (response, paragraph 34) does not assist the respondent, for four reasons:
 - 19.1 the assertion is made by attorneys in an unsworn response; it is untested and untestable;
 - 19.2 Rule 4.3 protects the *identity* of an informant; it does not convert undisclosed hearsay into *'facts truly stated or fairly indicated'* in the broadcast;
 - 19.3 the very authority the respondent cites decides the point against it. In *eNCA v Strydom and Taylor*, Case No 14/2019 (response, footnote 8), the broadcaster contended that its anchor's comment rested on other interviews it had conducted. The Appeal Tribunal held (at paragraph [12]) that those views *'did not form part of*

the broadcast and could not be relied on as the factual basis for the newsreader's comment', and (at paragraphs [13] and [14]) that the comment 'was a statement put as fact, and not open to rebuttal', in breach of clause 28.2. The respondent's reliance on its unbroadcast source material fails for the same reason; and

- 19.4 verification through Mr Mahomed is no verification at all. On the response's own account he is the principal accuser, the person to whom Mr Mashaba had handed the disputed affidavit *'in person'*, and the recipient of Mr Mashaba's WhatsApp denial, which he *'did not accept'* (response, paragraphs 34 and 36). To verify a disputed document through the person who deployed it and stands to benefit from it is circular reasoning. The accuser confirms his own accusation. The material should be given no weight.
20. The respondent's own logic also answers it. It dismisses Adv Morgan's explanation of the deposits as *'an untested assertion'* (response, paragraph 49.3.3). On that approach, the sworn, police-lodged statement of Mr Mashaba was suppressed, while the untested say-so of unnamed informants was preferred and broadcast as the programme's conclusion. That is the Code inverted.
21. The pattern is the one identified in *Isimangaliso*: the producer *'showed confirmatory bias by interviewing only disgruntled people'* (paragraph [62]); the record revealed *'a mindset in which the producer appears to want to vent only grievances in the programme'* (paragraph [66]); and there were *'several omissions of pertinent information given to the producer'* which *'would have served to give the audience a more balanced view'* (paragraph [73]).

E. THE 'NOT CONVINCED' EDITORIALISING (RESPONSE, PARAGRAPHS 34 AND 49.1)

22. The respondent defends the passage (*'But we are not convinced'*) as comment permitted by clause 28.2. The defence fails on the clause's own terms:
- 22.1 clause 28.2.2 permits comment only where it is *'made on facts truly stated or fairly indicated and referred to'*. The facts on which the programme's verdict professed to rest (the alleged source verification of the original affidavit's provenance) were not in the broadcast at all (eNCA, paragraph [12]);
- 22.2 what was in the broadcast was a naked juxtaposition: the retraction *'was signed just three days after Shabalala was gunned down'*. That is not a fact which fairly indicates a ground for disbelieving the retraction; it is an insinuation of intimidation or worse, resting on nothing broadcast; and
- 22.3 it is the false logic condemned in *Isimangaliso* at paragraph [56] (that because one thing followed another, it was caused by it), and the technique described at paragraph [47]: the insert *'does not state emphatically or directly'* the causal claim, *'[b]ut it does not have to. The innuendos are irresistible'*.
23. The placement compounds the breach. The verdict was delivered by the presenter after the interview material, in a position where no reply was possible, the *'statement put as fact, and not open to rebuttal'* which eNCA holds to breach clause 28.2 (paragraph [14]).

F. THE 'LAW SOCIETY REPORT' (RESPONSE, PARAGRAPH 41)

24. The respondent says the report was *'deployed against the Minister's position, not to make any allegation against Adv Morgan'*. The transcript says otherwise. The Minister's claim was that she has had *'no complaints against Morgan'*. To tell viewers that Carte Blanche *'has evidence, including a detailed report from the Law Society, to contradict her claim'* is

necessarily to assert that there are complaints against Adv Morgan, of sufficient substance to be recorded in a '*detailed report*'. That is an allegation against Adv Morgan, made in the broadcaster's own voice, in the closing seconds of the insert.

25. It was never put to him. The complainants do not, as paragraph 41.2 suggests, claim a right '*to respond to every document in a journalist's possession*'; nor do they seek the respondent's source material. They make the elementary point that an allegation to be broadcast about a person must first be put to that person. The duty is '*peremptory under the Code*' and rests '*squarely*' on the producer (*Isimangaliso*, paragraphs [77] and [89]). In *Diamond* the equivalent vice (a point raised on air and '*left in the air*' without the subject having been afforded an opportunity to reply) was held to breach clause 28.3.2 (paragraphs [14] and [15]).

G. THE RIGHT-OF-REPLY ENGAGEMENT (RESPONSE, PARAGRAPHS 44 AND 45)

26. The response presents the pre-broadcast engagement as generous process met by obstruction. The correspondence annexed to the response records otherwise:
- 26.1 on 20 April 2026 the producer invited Adv Morgan to an on-camera interview to be recorded four days later, on the strength of nine numbered topics and without the underlying material;
- 26.2 on 21 April 2026 Adv Morgan recorded that he would respond to questions and allegations in writing, and asked for proper and complete questions, the evidence at the respondent's disposal and its source;
- 26.3 the respondent then furnished nothing for three weeks. The response does not explain the interval;
- 26.4 on 12 May 2026 at 11:33 the respondent delivered thirteen detailed allegations for the first time, and required a response by 12:00 on 14 May 2026, some 48 hours later and five days before broadcast; and
- 26.5 Adv Morgan responded the same day, at 21:33, answering each allegation one by one, with supporting annexures, within ten hours of receiving the particulars he had requested three weeks earlier.
27. That is not a subject who declined his right of reply. It is a subject who exercised it, promptly and fully, in the only form the respondent's conduct of the engagement realistically allowed. The respondent's reliance on *Busch* is answered on this footing in paragraph 43 below.

H. THE DEPOSITS SEQUENCE: MOVO KUCHYNE AND BUSCOR (RESPONSE, PARAGRAPHS 49.2 AND 49.3)

28. The respondent makes much of the fact that the bus-ticketing explanation was '*never given to the broadcaster*' before broadcast (paragraph 49.3.1). The sequence of events answers the point:
- 28.1 the deposits allegation put to Adv Morgan on 12 May 2026 rested entirely on the Mashaba affidavit of 16 January 2025;
- 28.2 by then, the deponent had already disavowed that affidavit on oath, in a SAPS statement lodged on 5 April 2025, a fact within the respondent's knowledge before broadcast;

- 28.3 Adv Morgan answered the allegation by denying it and attacking the authenticity of the foundational affidavit, attaching the sworn disavowal and the WhatsApp denial, as the response itself records (paragraph 24.2); and
- 28.4 the stamped deposit slips annexed to the disputed affidavit were not furnished to Adv Morgan before broadcast, despite his request of 21 April 2026 that he be provided with proper and complete questions, the evidence at the broadcaster's disposal and its source.
29. A person accused on the strength of an affidavit which its own deponent has sworn is a forgery answers it as such. He is not required to guess at, and explain, annexures he has not been shown. The forensic detail now pleaded in the complaint became necessary only because the broadcast dramatised the slips to millions of viewers.
30. Paragraph 49.3.2 of the response concedes the remainder of the ground: the insert, it says, *'framed the inference as a question'*. An interrogative innuendo is still an innuendo (*Isimangaliso*, paragraph [47]). And facts *'truly stated'* in relation to that question would have included, at minimum, that the deponent had already disavowed the affidavit on oath, months before broadcast (paragraph 28.2 above).
31. Paragraph 49.2 of the response defends the insert's statement that the receipts *'show cash deposits made to a company of which Morgan is a director'* as *'an accurate account of what the affidavit and its annexures depict'*. The defence answers the wrong question. The pleaded case (complaint, paragraph 5.1.3) is that the slips flighted in the insert are Buscor slips, and that Adv Morgan is not a director of Buscor. That is a matter of inspection, not argument, and the Commission is invited to examine the slips as broadcast against the company records. Directorships are public records at the Companies and Intellectual Property Commission, and a basic desktop search before broadcast would have confirmed as much. That is the elementary verification a *'reasonable, responsible producer'* would have undertaken (*Isimangaliso*, paragraph [55]). If the slips shown are Buscor slips, the statement was false in the broadcaster's own voice, and the fair-comment defence fails on its own terms.

I. THE R55 MILLION (RESPONSE, PARAGRAPH 17.2)

32. The response sources the figure to the SABFS Annual Report 2024/25. The report records the amount as owed to the Fidelity Fund by the SABFS itself, unsecured, interest-free and repayable on demand (response, footnote 5). It records more. R55 457 182 was the balance at 28 February 2024. By 28 February 2025, the last year-end before broadcast, the balance had reduced to R29 501 082, and the Board had resolved that the SABFS repay R4 million annually, with interest at 8.25 per cent, until the amount is fully paid.
33. That is the complainants' point. An amount disclosed in audited annual financial statements, recorded as a receivable and repayable on demand, is the opposite of money *'missing'* from a fund. It is accounted for, audited and, by the last year-end before broadcast, nearly half repaid. None of that was given to viewers. On air, the figure stood as *'R55-million missing from the Fidelity Fund'*, in an insert alleging that the money was removed unlawfully and used to purchase property.
34. Attribution to Mr Mahomed does not cure the imbalance. The broadcaster held (or now claims to have held) the very document, the published annual report, that contradicted the characterisation of the amount as *'missing'*, and did not present it. A *'reasonable, responsible producer would have taken steps to independently establish and examine reliable alternative sources'* available in the public domain (*Isimangaliso*, paragraph [55]);

here the producer either did not consult the annual report, or consulted it and withheld what it showed. On either footing the balance clause was breached, and the outro's bare recital that Adv Morgan 'says' the audits were clean did not repair it.

J. WEBSITE AND CATCH UP PUBLICATION (RESPONSE, PARAGRAPHS 28 AND 39.4)

35. Clause 28.3.2 affords a right of reply '*on the same programme*', or, where that is impracticable, an opportunity for response '*where appropriate, for example in a right to reply programme or in a pre-arranged discussion programme*'. Both alternatives are broadcast programmes. The publication of redacted correspondence on a website is neither. It reaches a different audience through a different medium, and it cannot cure an imbalance transmitted to the broadcast audience. The complainants note, without more, that the versions published were redacted by the respondent.
36. The insert was also made available on DStv Catch Up for approximately one month after broadcast, with the studio introduction and outro included. That does not assist the respondent. The Catch Up viewer received the same package as the broadcast viewer. The sworn corroboration was still withheld, the broadcaster's verdict on the disavowal still stood, and the closing '*Law Society report*' allegation remained unanswered. A month of continued publication extended the imbalance. It did not cure it.

K. THE DIGNITY GROUND (RESPONSE, PARAGRAPHS 51 TO 56)

37. The response invokes the reasonable viewer of the insert '*viewed as a whole*' (response, paragraph 18), yet nowhere addresses the element of the whole that the viewer encountered first, the title. The respondent chose to name the programme after the murder, in the form of a question, and the insert offered the viewer a single candidate for the answer, the man '*sources tell us*' the deceased '*was about to publicly expose*'.
38. A disclaimer delivered inside the insert cannot cure an insinuation planted by the name of the programme itself. Insinuation accompanied by formal disavowal conveys the innuendo while preserving deniability. It is the opposite of the exceptional care that clause 28.4 demands.
39. The sourcing now advanced for the murder sequence (response, paragraph 53) is anonymous, unsworn and untested. Paragraph 19 above applies to it with equal force.

L. THE RESPONDENT'S AUTHORITIES

40. None of the authorities cited in the response answers the complainants' case. Two of them count against the respondent.
41. *SA Dental Association v M-Net*, Case No 37/2003, holds that the sufficiency of an opportunity to respond is judged by '*whether the opportunity to respond was granted rather than the cogency and length of the response*' (paragraph [22]). The complainants accept that test; their complaint is not about cogency or length. It is about the suppression of sworn corroborating material, an on-air demolition of the reply, and a closing allegation never put. *SA Dental* itself confines editorial prerogative as '*subject only to the dictates of balance and fairness*', the very limits invoked here.
42. *MXIT Lifestyle v M-Net*, Case No 47/2006, turned on two findings recorded at paragraph [13]: there was '*no evidence that Carte Blanche's commentary was not based on true or identified facts*', and the insert did not impute illegality. Both premises are absent here. The imputations are of the sale of public office, misappropriation of a public-protection fund and,

by juxtaposition, complicity in murder; and the factual basis of the commentary is precisely what is contested, and was partly withheld from viewers. *MXIT* adds (paragraph [6]) that media freedom *'must be exercised responsibly with due regard to the rights of others'*.

43. *Busch v M-Net*, Case No 01/2017, is the *'author of his own misfortune'* case. Mr Busch refused all substantive engagement, dismissing the allegations wholesale as a smear campaign (paragraphs [8] and [12]), and the broadcaster nonetheless *'went to pains to inform the viewers of the Complainant's side of the story'* (paragraph [11]). Adv Morgan is the mirror image: he answered each of the thirteen allegations one by one in writing on 12 May 2026 and twice asked that his answers be published in full. *Busch* moreover expressly preserves and distinguishes *Diamond* and *Isimangaliso* (paragraphs [27] and [28]); it is no answer to them.
44. *Jacobz v M-Net*, Case No 11/2018, involved a third-party viewer complainant, where the subject of the insert had thanked Carte Blanche in writing (the decisive fact, paragraph [14]), and the Tribunal in any event found the presentation unbalanced (paragraph [13]). More significantly, *Jacobz* quotes with approval (paragraph [11]) the Tribunal's holding in *SA Veterinary Council and Lester v M-Net*, Case No 42/2014 (paragraph [2]):

"This does not, however, necessarily mean that a broadcaster has the right not to include certain material. The right is, of necessity, always limited by the Broadcasting Code... [T]he public's right to be informed fairly and accurately in so far as news is concerned, and in a balanced manner insofar as comment is concerned, is a right that may be said to be of equal importance to that of the broadcasters."

45. In SAVC itself the complaint failed because the President of the Council's answer was broadcast *'clearly, effectively and succinctly'* at the core of the programme, *'its saving feature'* (paragraphs [3] and [6]). The contrast with the treatment of Adv Morgan's answer, summarised and then dismissed on air, marks the line between compliance and breach.
46. *eNCA v Strydom and Taylor*, Case No 14/2019, cited at footnote 8 of the response, was decided against the broadcaster, on facts close to these, and for reasons set out in paragraphs 19.3 and 23 above it supports the complainants, not the respondent.
47. *Mazetti Management Services v Amabhungane* 2023 (6) SA 578 (GJ) concerns the compelled unmasking of journalists' sources. The complainants seek the identity of no source, and the judgment is not engaged. It says nothing about the evidential weight of unsworn assertions of what unnamed sources are said to have verified, and nothing about the Code's requirement that the factual basis for comment appear from the broadcast itself.

M. DE BEER AND PATEL (RESPONSE, PARAGRAPHS 46 AND 47)

48. The complainants accept that Adv Morgan was told in advance that only the essence of a written response could be reflected on air, and they take no issue with condensation as such. The complaint is directed at selection. An essence that reproduces the subject's denials, while omitting the sworn corroboration of the central denial held by the broadcaster, is not a fair essence. The fairness of a summary is judged by what it leaves out as much as by what it includes.
49. The respondent's reliance on *De Beer* (Adjudication 22/A/2025) and *Patel* (Case No 05/2025) mistakes the distinction pleaded. In both matters the subject declined an interview and gave written responses, as Adv Morgan did. In both, no breach was

found because the written responses were duly broadcast. They were fairly reflected, without the suppression of corroborating material in the broadcaster's possession, without an on-air editorial demolition of the reply, without a new closing allegation never put to the subject, and without a broadcast title posing a murder question about the subject. Here each of those four features is present. The comparison does not save the insert; it condemns it.

N. THE RESPONDENT'S OFFER (RESPONSE, PARAGRAPHS 57 AND 58)

50. The respondent argues that if its offer (a broadcaster-drafted statement that there is no evidence linking Adv Morgan to the murder) would aggravate matters, then no corrective broadcast could ever satisfy the complainants, including the relief they themselves seek. The argument confuses two different things. A bare '*no evidence*' statement, drafted by the broadcaster, untethered to any finding, simply repeats the murder-and-Morgan juxtaposition and invites the audience to keep the question alive. A correction directed by the Commission is of a different character. It records that the Commission has found the broadcast to have contravened the Code, and in what respects, as was directed in *Diamond* (paragraph [26]) and *Isimangaliso* (paragraph [98]), in each case with broadcast at the start of a subsequent programme and proof of compliance to the Registrar within 48 hours.
51. Rule 3.6 permits the Registrar to withdraw acceptance of a complaint only where the offer constitutes, in the Registrar's opinion, '*a reasonable and sufficient offer of settlement of such complaint*'. The Registrar has not done so, and an offer that repeats the vice complained of could not qualify.

O. CONCLUSION

52. On the respondent's own papers it is common cause that it held, before broadcast, sworn material corroborating Adv Morgan's answer on the central allegation, and did not broadcast it; it pronounced its own adverse verdict on that answer in the broadcast; the grounds for that verdict were not in the broadcast; and the closing '*Law Society report*' allegation was never put to Adv Morgan. Those admitted facts establish the contraventions of clauses 28.2.2, 28.3.1 and 28.3.2 pleaded in the complaint, and, taken with the murder juxtaposition under the broadcaster's own title '*Who Shot the Sheriff?*', the contravention of clause 28.4.
53. The complainants accordingly persist in the complaint and in the relief sought in paragraph 6 of the complaint, read with paragraph 3.2 above, and ask that the matter be brought directly before a BCCSA Tribunal in terms of Rule 3.7, given the nature and extent of the issues raised."

EVALUATION

- [5] I have read both parties' written submissions and all other correspondence, and watched the insert aired on Carte Blanche on M-Net on Sunday, 17 May 2026. The complaint is brought under three clauses or sub-clauses in the BCCSA Code of Conduct for Subscription Broadcasting Service Licensees. The relevant clauses are:

Sub-clause 28.2.2

Comment must be an honest expression of opinion and must be presented in such manner that it appears clearly to be comment, and must be made on facts truly stated or fairly indicated and referred to.

Clause 28.3.1

In presenting a programme in which controversial issues of public importance are discussed, a licensee must make reasonable efforts to fairly present opposing points of view either in the same programme or in a subsequent programme forming part of the same series of programmes presented within a reasonable period of time of the original broadcast and within substantially the same time slot.

Clause 28.3.2

A person whose views are to be criticised in a broadcasting programme on a controversial issue of public importance must be given a right to reply to such criticism on the same programme. If this is impracticable, however, an opportunity for response to the programme should be provided where appropriate, for example in a right-to -reply programme or in a pre-arranged discussion programme with the prior consent of the person concerned.

Clause 28.4

Insofar as both news and comment are concerned, broadcasting licensees must exercise exceptional care and consideration in matters involving the private lives, private concerns and dignity of individuals, bearing in mind that the rights to privacy and dignity may be overridden by a legitimate public interest.

Without repeating the details of the complaints, each of these will be dealt with separately.

[6] Sub-clause 28.2.2: Comment

There is no question whether the broadcast falls within the ambit of clause 28.2.2, it does. The only issue to be determined is whether the program was based on “facts truly stated or fairly indicated and referred to”. The clause does not require that the facts have to be undeniably true. The insert was presented as allegations that are under investigation. The statements or expressions of

opinion were supported, and there is no evidence that any statements or assertions were made without such being fairly presented.

[7] *Clause 28.3: Controversial issues of public importance*

The complaints received in terms of this clause, which consists of two sub-clauses, contained some overlap, but for the sake of clarity, and in order to address each complaint properly, these are discussed separately.

Sub-clause 28.3.1: Were opposing views fairly presented, in other words was the content presented in a balanced fashion.

Before dealing with the two focus areas identified in the Particulars of contravention, it bears mentioning that the complainants' comparison of this broadcast to *Isimangaliso Wetland Park Authority v M-Net*, Case No 02/2016, where the producer was said to have shown bias by interviewing only disgruntled people, cannot be supported here.

Issue1: The repudiation of a sworn affidavit made by Mr Mashaba

In January 2025, Mr Mashaba made an affidavit, in which certain allegations were made. The presenter posed questions to the Minister of Justice and Constitutional Development based on this affidavit, whereafter she also explained the circumstances of a retraction affidavit later made by Mr Mashaba (though the complainants aver that this was not a retraction, nothing hinges on the wording, and I shall refer to it as such). The complainants allege that, though the broadcaster acknowledged the retraction, it was done "only to cast doubt on it". The manner in which the program presented the retraction of the affidavit was at the discretion of the respondent, what is crucial is that it was stated. The complainants' allegation of "editorial endorsement of disputed material" is unfounded.

Issue 2: Advocate Morgan's reply to allegations, including reference to SASS and SANAPS

The complaint is that Advocate Morgan's response (the email containing his responses to thirteen separate allegations) was not published in full, and that endorsements by two bodies (SASS and SANAPS) were not fairly reflected in the insert. Throughout the broadcast, several references to and quotes from the response by Advocate Morgan were included. At no stage was the impression created that these responses were presented in any way other than being a balanced reflection of his response. This issue is dealt with in more detail below. The presenters in studio during the concluding remarks after the insert, referred to the SASS and SANAPS endorsements (letters).

The BCCSA is not on a position to prescribe to a broadcaster what to include in a program, or when and how certain statements should be included or made, merely to test any included statements for fair presentation.

Sub-clause 28.3.2: The right to reply

The complainants allege that Advocate Morgan was not given a fair opportunity to reply to the allegations. Before the insert was aired, the respondent requested an on-camera interview with Advocate Morgan, as the Chairperson of the first complainant. Despite being urged in an email from the producer dated 20 April 2026 to "clarify [his] position on camera" as "it is crucial that the public hears your perspective directly and the fairest way to do this is an on-camera interview", he declined. He instead opted to reply in writing to a set of thirteen questions. Throughout the insert and during the outro, parts of his written response were quoted or referred to, and during the insert the presenter clearly stated that he denied all wrongdoing.

Advocate Morgan's request to publish his response in full is neither here nor there, as he elected this written response as his preferred mode of participation, despite being informed when the questions were sent to him that the insert would only be able to reflect "the essence" of a written reply.

[8] *Clause 28.4: Privacy*

The complaint is brought on two grounds, namely injury to Advocate Morgan's dignity, and bringing the South African Board for Sheriffs into disrepute.

There is no evidence that Advocate Morgan's dignity was injured. Exceptional care was shown in what was said during the relevant portion of the insert: the presenter clearly stated that there was no evidence that Advocate Morgan was involved in Mr Shabalala's killing, and also mentioned that Mr Shabalala was under investigation at the time of his death. Advocate Morgan was given the opportunity to reply to the statement that "sources tell us Shabalala was about to publicly expose him", and his response was included in the outro.

Furthermore, even if the complainant's dignity was impaired, which it clearly was not, Clause 28.4 states that the rights to privacy and dignity may be overridden by a legitimate public interest. This broadcast was clearly a matter of legitimate public interest.

The Code of Conduct for Subscription Broadcasters does not address institutional reputation. The clause addresses the privacy and dignity of individuals.

[9] The BCCSA evaluates complaints based on the programme as it was broadcast, to determine whether the specific clauses in the code have been breached. In this instance, the two presenters' concluding remarks at the end of the insert are entirely devoted to the response received from Advocate Morgan,

as well as the letters in which support was voiced for him. If anything, it could be argued that it swayed the balance in his favour.

[10] **Accordingly, no contravention of any of the clauses of the Code on which the complainants rely has been found, and the complaint is dismissed.**

A handwritten signature in black ink, appearing to read 'S Ferreira', is enclosed within a light gray rectangular box.

**PROF S FERREIRA
COMMISSIONER: BROADCASTING COMPLAINTS COMMISSION**