



**FEDERAL LEGAL COMMISSION
OF THE DEMOCRATIC ALLIANCE**

CASE NUMBER: D50/2023

In the matter of:

DEMOCRATIC ALLIANCE

THE PARTY

and

ABDULKADER ZAKARIA MOHAMMED IQBAL ELYAS

CHARGED MEMBER

PLEA AND PENALTY AGREEMENT

1. GENERAL PROVISIONS

1.1. This agreement is entered into by:

**ABDULKADER ZAKARIA MOHAMMED IQBAL ELYAS (ID 9507235816084)
(CHARGED MEMBER),**

and:

The DEMOCRATIC ALLIANCE (PARTY)

**a voluntary association with its Federal Head Office situated at 16 Mill Street,
Gardens, Cape Town.**

**1.2. This agreement relates to the settlement of the disciplinary processes initiated
against the Charged Member by the Party in terms of the applicable provisions
of the Federal Constitution of the Democratic Alliance under case number
D50/2023 of the Federal Legal Commission.**


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- 1.3. This agreement represents the entire agreement in respect of plea and penalty between the Party and the Charged Member, properly represented by Mr Leon van Rensburg from Van Rensburg & Co Attorneys, Cape Town.
- 1.4. The Charged Member agrees that this agreement is entered into voluntarily and that there has been no action of duress compelling him/her to enter into this agreement.
- 1.5. The Parties agree that the necessary procedural requirements applicable to disciplinary matters, as determined by the Federal Constitution of the Democratic Alliance and the Rules of the Federal Legal Commission, have been met in full.
- 1.6. All parties to this agreement understand that this plea and penalty agreement is tendered as a proposal to the Panel and is dependent upon the approval of the Panel before it can be so ordered.
- 1.7. All parties to this agreement acknowledge that the sanction agreed upon between the parties, and ordered by the Panel, must be ratified by the Federal Executive of the Party before it has any force and effect.
- 1.8. All parties to this agreement acknowledge in particular that the sanction agreed upon between the parties and ordered by the Panel may, in terms of the Federal Constitution of the Democratic Alliance, be amended by the Federal Executive, on good reason.
- 1.9. The Charged Member understands the charges that are leveled against him, as set out in the Charge Sheet attached hereto as "ANNEXURE A".
- 1.10. The Charged Member understands the nature of this plea and penalty agreement, and the nature and effect thereof has been specifically explained to him/her by his/her legal representative.
- 1.11. The Charged Member agrees to waive the right the 12 working days' notice period for a hearing to be held, as stipulated in Rule A.3.3. of the Rules of the Federal Legal Commission and agrees that this matter may be heard on short notice by the appointed Panel.
- 1.12. The Charged Member admits fully to the following facts:


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- 1.12.1. The Charged Member, by *commission* or *ommissio*, failed to provide accurate information in respect of his qualifications as part of his application and/or Curriculum Vitae to become a public representative of the Party and/or the Curriculum Vitae supplied to the Party as part of the Candidate Selection Process for the 2024 National- and Provincial Elections.
- 1.12.2. That, in addition to the above, the Charged Member, by *commission* or *ommissio*, failed to provide accurate information in respect of his qualifications as part of his application and/or Curriculum Vitae to become a public representative of the Party in the following Party processes:
- 1.12.2.1. 2019 National and Provincial Government Elections;
- 1.12.2.2. 2020 DA Young Leaders Programme;
- 1.12.2.3. 2021 Local Government Elections;
- 1.12.2.4. 2021 DA Young Leaders Programme; and/or,
- 1.12.2.5. 2022 DA Young Leaders Programme.
- 1.13. The Charged Member pleads guilty to all charges as set out in the Charge Sheet and the facts pertinent thereto, as set out in par. 1.12. above.

2. FACTORS CONSIDERED IN AGGRAVATION OF SANCTION

- 2.1. The Party submits and the Charged Member admits the following factors to be taken into consideration in aggravation of the sanction in this matter:
- 2.1.1. The Charged Member was elected as a Councillor in the City of Cape Town in 2021 and is accordingly expected to maintain an exemplary standard of conduct and act as a role model for other members of the Party and the public in the greater Cape Town Metropolitan Region;
- 2.1.2. The misconduct, in the case of *commission*, relates to dishonesty or, in the case of *ommissio*, to gross negligence in the Charged Member's participation in the Party's selection- and application processes;



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- 2.1.3. The misconduct of the Charged member were widely reported on by the media, which not only caused a severe degree of reputational damage to the Charged Member, but also to the Party, whom the Charged member represents as a public representative;
- 2.1.4. The misconduct of the Charged Member amounts to a material violation of / failure to comply with the standards set for members and public representatives of the Democratic Alliance.
- 2.1.5. The severity of the offence, in particular the manipulative nature thereof, as well as the considerable damage done to the public image of the Party as a result of this behaviour.

3. FACTORS TO BE CONSIDERED IN MITIGATION OF SANCTION

- 3.1. The Charged Member submits and the Party admits the following factors to be taken into consideration in mitigation of the sanction in this matter:
- 3.1.1. The Charged Member has been a loyal member of the Party and a public representative since 2021. During this time, the Charged Member made invaluable contributions to the Party on all levels and has served with dignity and integrity;
- 3.1.2. This is the first time that the Charged Member has been charged for any misconduct of this nature;
- 3.1.3. The Charged Member shows an understanding for the misconduct and seeks to correct the damage done to the Party through his actions; and,
- 3.1.4. The Charged Member withdrew his candidature for the 2024 National- and Provincial Government Elections of his own accord, which withdrawal is seen as a *bona fide* attempt to limit any further reputational harm to the Party in the runup to NPE 2024.



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4. SANCTION

4.1. Taking into account the totality of the evidence and the aggravating and mitigating circumstances, the parties agree that the following would be an appropriate penalty under the circumstances:

4.1.1. That the Charged Member's membership be terminated, which termination shall be suspended for the remainder of his current term of office as a public representative in the City of Cape Town, or the 2026 Local Government Elections, whichever date is the latest, which suspension will be subject to the following conditions:

4.1.1.1. That the Charged Member is not found guilty by the Federal Legal Commission of another act of misconduct during this period, upon which his membership will be terminated automatically; and,

4.1.1.2. That the Charged Member will be barred from standing for any position in the Party – elected or non-elected – other than that of ordinary public representative (MP/MPL/Councillor) and constituency head and that the Charged Member will resign from all such positions, except that of councillor, that he currently holds for the suspension period.

4.1.2. That the Charged Member will, at own expense:

4.1.2.1. Attend a psychological assessment to determine the presence of any underlying medical/psychological condition that may have caused or contributed to the Charged member committing the acts of misconduct referenced in this agreement;

4.1.2.2. Pursuant to the psychological assessment referred to in paragraph 4.1.2.1, attend appropriate psychological treatment as determined by a suitably qualified clinical psychologist;

4.1.2.3. Disclose fully the results of the psychological assessment to the Chairperson of the FLC and Chairperson of the Federal Executive in order to determine what, if any, action needs to be taken, should the results of the psychological assessment reflect that the Charged Member poses a danger to the public or society. This will be done in conjunction


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with the Charged Member and his legal representative, in the strictest confidence.

- 4.1.2.4. Attend a suitable course in ethics, to be determined by the Federal Executive in consultation with the Chairperson of the Federal Legal Commission, which course must be completed before 31 December 2024.

5. ENFORCEABILITY

5.1. The Charged Member agrees:

- 5.1.1. That the terms of this agreement will be enforceable in full upon consideration and approval from the Federal Executive of the Democratic Alliance;
- 5.1.2. That failure to adhere to the specific terms of this agreement within the timeframes agreed to by the parties will immediately cause the membership of the Charged Member to terminate without any further notification;
- 5.1.3. That this agreement is deemed to have been entered into at the Party's Federal Head Office, located at 16 Mil Street, Gardens, Cape Town, regardless of the location of the signatories to this agreement.
- 5.2. No variation of this agreement shall be valid unless so agreed to in writing by the Charged Member and the Party; provided that the authority of the Federal Executive of the Democratic Alliance to vary the sanction agreed to by the Parties in terms of this agreement may be exercised in the manner provided for in terms of the Federal Constitution of the Democratic Alliance.
- 5.3. The provisions of this agreement are divisible and the invalidity of any provision of this agreement does not affect the validity of the agreement in general or any other provisions thereof.



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6. SIGNATORIES

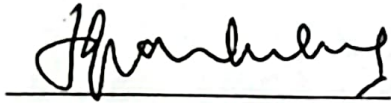
6.1. CHARGED MEMBER



MR AZMI ELYAS

SIGNED AT Cape Town ON THIS 5th DAY OF September 2024.

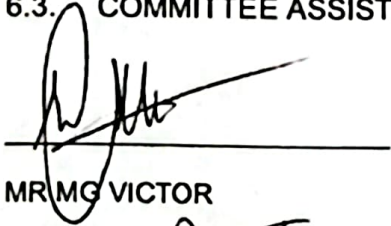
6.2. REPRESENTATIVE FOR THE CHARGED MEMBER



MR L VAN RENSBURG

SIGNED AT Cape Town ON THIS 5th DAY OF September 2024.

6.3. COMMITTEE ASSISTANT, ON BEHALF OF THE PARTY



MR MG VICTOR

MS DJ CROWIE

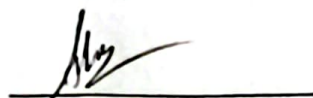
SIGNED AT Cape Town ON THIS 05th DAY OF September 2024.

6.4. CHAIRPERSON/~~DEPUTY CHAIRPERSON~~ OF THE FEDERAL LEGAL COMMISSION



ADV G BREYTENBACH

SIGNED AT Cape Town ON THIS 5TH DAY OF SEPTEMBER 2024.


CHARGED MEMBER
COMMITTEE ASSISTANT

SECTION 7 TO BE COMPLETED BY THE CHAIRPERSON OF THE PANEL

7. RATIFICATION

7.1. I, WERNER HORN , acting in my capacity as the Chairperson of the Disciplinary Panel appointed to adjudicate this matter, confirm that this agreement HAS / HAS NOT (delete as applicable) has been ratified by the Disciplinary Panel consisting of:

7.1.1. WERNER HORN (Panel Chairperson);

7.1.2. BRIDGET MASANGO ; and,

7.1.3. KEVIN MILEHAM .

following an ~~IN-PERSON~~/ DIGITAL (delete as applicable) hearing for the purposes of confirmation of this document.

7.2. If ratified, this agreement constitutes the written finding and sanction of the Disciplinary Panel in this matter and may be presented to the Federal Executive authority for consideration.

(signed electronically)

PANEL CHAIRPERSON

SIGNED AT (electronic) ON THIS 05TH DAY OF SEPTEMBER 2024.



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ANNEXURE "A"



FEDERAL LEGAL COMMISSION OF THE DEMOCRATIC ALLIANCE

CASE NUMBER: D50/2023

In the matter of:

DEMOCRATIC ALLIANCE

THE PARTY

and

ABDULKADER ZAKARIA MOHAMMED IQBAL ELYAS

CHARGED MEMBER

CHARGE SHEET

1. AT ALL TIMES RELEVANT TO THE CHARGES:

1.1. The Charged Member was a paid-up member in good standing of the Democratic Alliance ("the Party");

1.2. The Charged Member was over and above the rights, duties and obligations that exists between the party and himself as an ordinary member the Charged Member holds/held the following positions by virtue of his membership of the Party:

1.2.1 He is public representative of the party as a Councillor in the City of Cape Town Metropolitan Municipality.

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1.3. The Charged Member has (in an application for nomination as a candidate of the party) on or about 19 June 2023, and in the presence of a Commissioner of Oaths and writing, *inter alia* and relevant hereto, declared:

1.3.1 That he is a paid-up member of the Party.

1.3.2 That he is familiar with and subscribes to, supports and will propagate the vision, principles, policy, and program of action of the Party.

1.3.3 He is familiar with the provisions of the Federal and, if applicable, Provincial Constitution of the Party and will abide by those provisions.

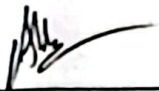
1.3.4 That he is familiar with the provisions of and will abide by Party's:

1.3.4.1. Behaviour and Attitudes Statement; and,

1.3.4.2. Code of Conduct for Public Representatives.

1.3.6 That he will comply with any requirements that may be determined by the Federal Executive relating to his conduct as a public representative.

1.3.7 That he binds himself to any other decision, policy or regulation agreed to by Federal Congress, Council or Executive from time to time.


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2. NOW THEREFORE THE CHARGED MEMBER IS CHARGED AS HAVING COMMITTED AN ACT(S) OF MISCONDUCT IN THAT:

2.1. CHARGE 1

On or about 22 July 2018, the Charged Member provided false and/or inaccurate information in respect of his qualifications as part of his application to be a candidate for the Party in the 2019 National and Provincial Government Elections, specifically relating to the following entries as part of the abovementioned application:

2.1.1. Bachelor of Commerce, Economics, and Finance (Degree) – University of Cape Town (2017);

2.1.2. Honours in Finance (Degree) – University of Cape Town (2018).

2.1.3. Personal statement – *“What is it that makes me who I am, what are the constituents of Mr Abdulkader Elyas, a 21-year old final year actuarial science, science and finance triple major student, who has also completed three years of medicine, starting university at 15?”*,

which qualifications the Charged Member has not obtained.

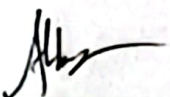
2.2. CHARGE 2

On or about 30 June 2020, the Charged Member provided false and/or inaccurate information in respect of his qualifications as part of his application to be a candidate for the Party in the 2021 Local Government Elections, specifically relating to the following entries as part of the abovementioned application:

2.2.1. Bachelor of Commerce, Economics, and Finance (Degree) – University of Cape Town (2017);

2.2.2. Honours in Finance (Degree) – University of Cape Town (2018).

2.2.3. Personal statement – *“What is it that makes me who I am, what are the constituents of Mr Abdulkader Elyas, a 21-year old final year actuarial*


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science, science and finance triple major student, who has also completed three years of medicine, starting university at 15?",

which qualifications the Charged Member has not obtained.

2.3. CHARGE 3

During or prior to 2020, the Charged Member provided false and/or inaccurate information in respect of his qualifications as part of his application to be a candidate for the 2020 Democratic Alliance Young Leaders' Programme, specifically relating to the following entry as part of the abovementioned application:

2.3.1. BBusSci Actuarial Science, Economics, and Finance with honours (2015-2018);

which qualification the Charged Member did not obtain.

2.4. CHARGE 4

During or prior to 2021, the Charged Member provided false and/or inaccurate information in respect of his qualifications as part of his application to be a candidate for the 2021 Democratic Alliance Young Leaders' Programme, specifically relating to the following entries as part of the abovementioned application:

2.4.1. BBusSci Actuarial Science, Economics, and Finance

2.4.2. Commerce Honours Finance -Finteh and Risk Management;

2.4.3. MB Ch Db (Bachelor of Medicine and Bachelor of Surgery) (4th Year)

which qualifications the Charged Member has not obtained.



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2.5. CHARGE 5

During or prior to 2022, the Charged Member provided inaccurate information in respect of his qualifications as part of his application to be a candidate for the 2022 Democratic Alliance Young Leaders' Programme, specifically relating to the following entry as part of the abovementioned application:

2.5.1. B.Com Economics with Finance – University of Cape Town (end 2021);
which qualification the Charged Member did not obtain.

3. THEREBY:

3.1. The Charged Member is guilty of misconduct in terms of the following sections of the Federal Constitution:

2.5.4.2. *acting in a way which impacts negatively on the image and the performance of the party;*

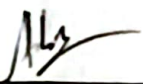
2.5.4.4. *failing to carry out his duties and/or responsibilities according to standards set by the Federal Council of the party or the relevant provincial or regional council or to standards required by any statutory rules of conduct required by the public office he holds;*

2.5.4.5. *acting in a manner that brought the good name of the Party into disrepute or harmed the interests of the Party;*

2.5.4.6 *acts in any manner whatsoever that is unreasonable and detrimental to internal cooperation within the Party;*

2.5.4.7. *unreasonably failed to comply with or rejected decisions of the official formations of the party.*

[END]



CHARGED MEMBER



COMMITTEE ASSISTANT

