



## REPORT OF THE ADJUDICATOR

<b>Complaint reference number:</b>	21849
<b>WASPA member(s):</b>	HR Computek (SP)
<b>Membership number(s):</b>	0114
<b>Complainant:</b>	Secretariat
<b>Type of complaint:</b>	Failure to pay sanction
<b>Date complaint was lodged:</b>	2013-10-02
<b>Date of the alleged offence:</b>	N/A
<b>Relevant version of the Code:</b>	12.4
<b>Clauses considered:</b>	14.3.23
<b>Relevant version of the Ad. Rules:</b>	N/A
<b>Clauses considered:</b>	N/A
<b>Related cases considered:</b>	N/A

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### Complaint

The Complainant in this matter alleged that the SP in this matter fail to comply with the sanctions issued against it in terms of adjudications 10968/10743/10550/11370 and appeals 11288/10944/12035.

The Complainant then further advised that the SP in this matter also failed to comply with adjudication 15531

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### Service provider's responses

The SP responded as follow:

“You are disingenuous with the facts on this matter. Our legal counsel xxxxxxxx has been in contact with you and is handling the matter. If your expected response is for Computek to pay without questioning the rationality, then you are completely misguided. We have raised issues around penalties and to date have not received sufficient response. Our counsel will continue to handle the matter until advised otherwise.”

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### **Sections of the Code considered**

14.3.23. If no appeal is lodged, or if the adjudicator has specified certain sanctions as not being suspended pending an appeal, the failure of any member to comply with any sanction imposed upon it will itself amount to a breach of the Code and may result in further sanctions being imposed.

14.3.24. The member must provide the secretariat with confirmation of compliance with any applicable sanctions within five working days of receiving the adjudicator's report.

14.3.25. The member must pay any applicable fine(s) imposed by an adjudicator within five working days of receipt of invoice.

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### **Decision**

In adjudicating a matter the Adjudicator has to rely on the information submitted and hence presented to him/her. The Adjudicator has taken note of the Complaint and the SP's subsequent reply.

From the relevant facts indicated in the various adjudications and subsequent appeals as well as the ruling on sanctions not adhered to by the SP as referred to in adjudication 15531, the Adjudicator in this matter has no hesitation in finding the SP in breach of section 14.3.25, such breach being deduced from section 14.3.23.

The Adjudicator is also of the opinion that the SP in this matter has no regard for the procedures prescribed by WASPA.

The Complaint is therefore upheld.

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### **Sanctions**

In determining an appropriate sanction, the following factors were considered:

The prior record of the SP with regard to breaches of the relevant sections of the Code of Conduct; and  
The SP's subsequent response.

The SP's membership is suspended with immediate effect until it effects payments in terms of sanctions issued under adjudication 15531 and appeals 11288/10944/12035 and fined an additional amount of R 100 000-00 for its disregard for WASPA processes.