

MBA811 – CORPORATE GOVERNANCE

Individual activity



Submission Date:

- 09 March 2019 (P);
- 11 March 2019 (V)

Effectiveness of internal fraud tip-offs declines

WHISTLE-blowing might be under threat in SA due to decline in effectiveness of formal systems and internal tip-offs in detecting fraud since 2007, professional services firm PwC said on Tuesday.

Internal tip-offs detected 22% of crimes in 2007 but declines to 9% last year, and whistle-blowing was responsible for 16% and dropped to 6%, the firm's 2014 global economic crime survey showed on Tuesday.

PwC forensic service leader for Africa Louis Strydom said the decline might be related to the shift in the profile of perpetrators – 41% last year were senior managers compared with 17% in 2009.

Other staff (excluding senior and middle management) was 54% in 2009 against 23% now.

"This trend is worrying. Employees are less willing to blow the whistle if the fraudster is more senior than the whistle-blower," Mr Strydom said.

Corruption Watch CEO David Lewis agreed and said protection for whistle-blowers in South Africa was limited.

Amanda Visser

Business Day: 19 February 2014

Becoming a whistleblower changed her life "forever".

That is what Eskom's head of legal compliance Suzanne Daniels said on Sunday in an interview with eNCA.

"You want to get some normality back into your life, but it's changed forever," Daniels said.

"When it's you, the person that is affected, it's a whole different ball game. Objective and rationally you know those things, but then when you get down to the nitty-gritty you have to think, 'I can't just go to a supermarket anymore'."

The Commission for Conciliation, Mediation and Arbitration (CCMA) found on Tuesday that Eskom suspending Daniels was an "unfair labour practice".

"The respondent party Eskom is ordered to uplift the suspension with immediate effect and take the applicant back into its employ with effect from March 19 2018," CCMA commissioner Prince Kekana ruled.

Eskom was also ordered to pay Daniels her salary for the five months she was suspended.

Daniels blew the whistle on state capture at Eskom while testifying in parliament last year. She compiled a report implicating senior Eskom managers in the Trillian/McKinsey saga. Eskom paid global consultancy McKinsey and Gupta-linked financial firm Trillian R1.6-billion.

Daniels also issued letters of demand to McKinsey and Trillian in October to the value of R1.6-billion. She was suspended shortly after the letters of demand were sent to McKinsey and Trillian by then acting CEO Sean Maritz. Maritz has since been suspended and subsequently resigned.

Daniels was grateful for the "male-dominated" working environment to keep up a "stoic" demeanour.

"My family used to send me messages in the morning, 'Remember your rock face'," Daniels said.

"It was really hard, because you have one persona at work, trying to keep it together."

She thanked her faith, family, friends and South Africans for their support.

"The superficial people disappeared."

Daniels said whistleblowing in the corporate sector is tough, because you do not know where the information is going to end up.

"The people that you think that you can trust you can't, end up being the ones that try and vilify you, try and make you out to be a liar, discredit you and an emotional woman."

Times Select reported in February that Daniels believed she was under surveillance after a suspicious vehicle was seen outside her house in Pretoria.

Police spoke to neighbours, security guards in the street and reviewed CCTV footage. They found at least three cars had been seen in the vicinity, at one point stopping together in the road while the drivers spoke to each other from inside their vehicles.

Police are investigating a case of intimidation.

Daniels described her home as "Fort Knox".

"I am not used to living like that, but you also recognise what is necessary."

<https://www.businesslive.co.za/bd/national/2018-03-11-becoming-a-whistleblower-changed-suzanne-daniels-life-forever/>

Instruction

In South Africa, Whistle-blower legislation is embodied in the Protected Disclosures Act, 26 of 2000.

1. You are required to study the Act and the 2017 amendments and to provide a brief explanation as to how the Act protects whistle-blowers. Attention must be given as to who is protected, the requirements for protected disclosures and the procedures to follow in respect of the particular methods of disclosure and the actual content of the protections. (Marks: 10)
2. You are referred to the article about Suzanne Daniels above as published in the Sunday Times of 11 March 2018. Critically discuss whether the Act and more specifically the latest amendments address the concerns raised by Daniels. (Marks: 10)

3. Select the whistle-blower policy an entity of your choice. In view of your conclusions in 2 above, critically assess whether this policy will promote the reporting of irregularities in the organisation. Also make suggestions for inclusion in the policy to address the concerns of Daniels. (Marks: 20)

Important information

The objective of the assignment is to ensure that the student has a good understanding of the legal requirements pertaining to whistle-blowing and the implications thereof. You should therefore avoid quoting sections from the Act. The challenge is to gain an understanding of the provisions. Therefore deal with the legislation in your own words.

Your paper should not exceed six A4 typed pages. (Title page, index, bibliography and whistle-blower policy excluded). (Total marks: 40)