



A LIFE WELL LIVED

**MHA MANAGEMENT HOLDINGS (PTY)LTD**  
**(“MHA”)**  
**FSP 10134**

**Policy Name**

WHISTLE-BLOWER POLICY


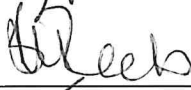

**Version number**

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**Policy sponsor**

Legal, Risk and Compliance

**Approval process**

| MANAGER/<br>COMMITTEE                   | NAME                 | SIGNATURE  | DATE      |
|---|----------------------|--|-----------|
| HEAD OF LEGAL<br>RISK AND<br>COMPLIANCE | PENNY<br>SPENTZOURIS |   | 23/5/2019 |
| SALES DIRECTOR/<br>KEY INDIVIDUAL       | BEV REEB             |   | 23.5.19   |
| CEO/ KEY<br>INDIVIDUAL                  | SHAUN PESSKIN        |  | 22/5/19   |

## 1. PURPOSE

MHA is committed to at all times render financial services honestly, fairly, with due skill, care and diligence, and in the interests of clients and the integrity of the financial services industry. To realise this commitment, MHA will devote itself to the elimination of fraud, corruption and other acts of dishonesty and ensuring that MHA's activities are at all times conducted ethically and to the highest possible standard of openness and accountability.

Fraudulent, corrupt or other dishonest practices are contrary to MHA's core values and will not be tolerated. MHA recognises the adverse effect that such practices could have on its activities and reputation and is committed to preventing them and taking robust action where they are found to occur.

To achieve this, MHA is in particular committed to preventing:

- Unlawful and irregular conduct perpetrated by its employees and/or clients
- Unlawful and irregular conduct perpetrated against MHA by its employees, clients and/or other third parties
- Any collusive illegal practices among any such parties

MHA does not, and shall not, tolerate any unlawful and irregular practices in the course of its operations and the rendering of financial services. MHA expects that all its employees adhere to the highest standard of integrity and that no contractual arrangements with clients, product suppliers or other third parties are tainted by fraudulent, corrupt or other dishonest practices.

All suspicions concerning unlawful and illegal conduct will be promptly investigated. Should MHA elect to investigate and act upon alleged unlawful and illegal conduct, there will be no distinction drawn between cases that generate financial benefits and those that do not.

Any instances of illegal and unlawful conduct, will be treated as a very serious form of misconduct and any person or entity found to have engaged in these practices will be subject to MHA's disciplinary procedures. The following prevention measures have been implemented in order to mitigate the risk of illegal and unlawful conduct:

- The promotion of a compliance culture
- Fraud and Corruption awareness training in accordance with MHA's Anti-Fraud and Corruption Legal Compliance Guide

- The implementation of internal controls
- The implementation of reporting mechanisms
- The protection of employees and workers who refer instances of non-compliance for investigation by implementing this Policy
- A commitment to investigating suspected instances of unlawful and illegal conduct
- The establishment of fixed sanctions

## 2. ORGANISATIONAL SCOPE

MHA's stakeholders must familiarise themselves with the contents of this policy and complete the relevant required sections. MHA's Executive management must acknowledge MHA's ownership of this document, by completing and signing the cover page. All relevant personnel must acknowledge that they have read and understand the contents of this document by signing the personnel acknowledgement sheet.

Employees are usually amongst the first to realize that there may be some unlawful or irregular conduct by MHA or other employees in the employ of MHA. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to their employer. They may also fear harassment or victimization. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice or unlawful or irregular conduct.

This view is also sometimes reinforced by the negative connotations associated with "*whistle-blowing*", a term used to describe the reporting of irregular or illegal conduct by MHA or other employees.

Even so, MHA acknowledges that the immense harm which can be done not only to MHA but to other employees and other stakeholders by failing to disclose such conduct has been demonstrated in recent high profile corporate collapses, such as the Enron case. On the other hand regulating the disclosure of possible irregular or illegal conduct is equally important to ensure that the reputation and public image of MHA or character and reputation of individual employees is not damaged through disclosure of alleged irregular or illegal conduct which may turn out to be false, unsubstantiated or misleading.

Therefore MHA recognizes that need for and importance of whistle-blowing as a means of ensuring that stakeholders can raise issues of concern and conscience confidentially inside the organisation,

and to encourage stakeholders to raise genuine concerns about malpractice at the earliest practicable stage.

This policy and procedure is, accordingly, intended to provide a safeguard to enable members of staff to raise concerns about one or more of the following examples as set out in The Protected Disclosures Act [Act No. 26, 2000], as amended.

- That a criminal offence has been committed, is being committed, or is likely to be committed;
- That a person has failed or is likely to fail to comply with any legal obligation to which that person is subject;
- That a miscarriage of justice has occurred, is occurring or is likely to occur;
- That the health and safety of any individual has been, is being or is likely to be damaged. [It must indicate a greater danger than is associated with the normal use of the process/product, or a danger that is not usually associated with it];
- That the environment has been, is being or is likely to be damaged;
- Unfair discrimination as contemplated in the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 [Act No. 4 of 2000]; or
- That information tending to show any matter falling within any one of the preceding examples has been, is being or is likely to be deliberately concealed.

Subsequent amendments of these Whistle-blowing Procedures will be developed in consultation with the recognised members of staff who will also be invited to contribute to their development.

The processes associated with the implementation and continued compliance with this policy must be performed by the Executive Management of MHA as well as the appointed Compliance Officer and / or Compliance Manager and/or the Head of Legal Risk and Compliance.

Internal controls and processes include the following:

1. The Head of Legal Risk and Compliance will ensure that the policy is kept in the compliance file, and will confirm its adoption as part of MHA's quarterly feedback report to the Board of Directors;
2. The Head of Legal Risk and Compliance will ensure that all relevant staff sign the policy, and will confirm such signature as part of MHA's quarterly feedback report;
3. The Head of Legal Risk and Compliance will ensure that the annexure section of this policy is completed, and will confirm such completion as part of MHA's quarterly feedback report;



4. The Compliance Department of MHA will ensure the annual review of all contracts held with 3rd parties, and the appointed Compliance Officer will confirm such review as part of MHA's feedback report;

The policy will be:

1. Overseen by the Executive Management who carry the responsibility for the implementation, reviewing and updating of the policy's associated processes;
2. Reviewed at least annually, and where necessary, updated to ensure that the arrangements remain adequate to identify, assess, evaluate and successfully control illegal and unlawful conduct;
3. Regularly reviewed by the Head of Legal Risk and Compliance, and where necessary, updated to ensure that the arrangements remain adequate to identify, assess, evaluate and successfully control illegal and unlawful conduct.

### 3. PRINCIPLES AND GUIDELINES

#### 3.1 Reporting procedure:

Any person wishing to raise concerns, in a confidential manner, about such matters as fraud and financial irregularities; serious maladministration arising from deliberate improper conduct; miscarriages of justice; failure to comply with legal obligations; unethical activities that may be of a criminal nature; or dangerous acts or omissions that create a risk to health, safety or the environment within the sphere of activities of MHA, should report the matter to the Compliance Officer and/or Head of Legal Risk and Compliance and/or Key Individual. In the event that the concerns relate to the 'Representative', they should be reported to the Key Individual. Reports must be submitted to the following persons:

| Name              | Contact Details                   |
|-------------------|-----------------------------------|
| Shaun Pesskin     | shaun@nhb.co.za                   |
| Bev Reeb          | bev@nhb.co.za                     |
| Penny Spentzouris | penny@nhb.co.za                   |
| Nicky McClure     | mnclure@moonstonecompliance.co.za |

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An email to be addressed to one of the aforesaid contacts. A full explanation and particulars of the allegations to be made in such email. Confirmation of receipt to be made in writing within 48 hours.

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A response to the report to be made within 7 days providing an update of steps taken to address the issue and an update of the outcome of the investigation.

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Where the employee, client or other external third party is not comfortable reporting the actual or suspected irregularity by way of the facility indicated above, the following alternative facility may be utilised:

| Name          | Contact Details                   |
|---------------|-----------------------------------|
| Nicky McClure | mnclure@moonstonecompliance.co.za |

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An email to be addressed to one of the aforesaid contacts. A full explanation and particulars of the allegations to be made in such email. Confirmation of receipt to be made in writing within 48 hours.

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A response to the report to be made within 7 days providing an update of steps taken to address the issue and an update of the outcome of the investigation.

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It is important to recognise that whistle-blowing is not a substitute for the Grievance Procedure that is available to staff who have individual or collective complaints about their management.

Concerns should normally be raised in writing using the form annexed to this policy, but oral reports will also be accepted on the understanding that instances of whistle-blowing raised anonymously may not necessarily be investigated.

When raising concerns with the representative, it will be asked whether or not the person reporting wishes to make a written or verbal statement. In either case, the designated officer will write a brief summary of the interview, which will be agreed by both parties. Where the choice is made to raise concerns in writing, the complainant should set out the background and history of the concern, giving

names, dates and places where possible, and the reason why the situation is of concern. If the complainant does not feel able to put the concern in writing at that stage, the concern will need to be put in writing although through a representative.

In order for investigations to be successful, reports should be as specific as possible. To the extent possible, every report should include the following details:

- The type of alleged or suspected wrongdoing
- Where and when the event occurred or is likely to occur
- Who is involved, or suspected to be involved, and who has knowledge about the matters being reported
- How, or in which suspected way, the individual or organisation committed or will possibly commit the alleged wrongdoing
- Why the matter is being reported

It is vitally important that official contact is made immediately via the reporting procedure described above and that any temptation to carry out an own investigation is avoided. It is also essential that secrecy is maintained both within and outside MHA in order to assist with the detection of the offence and in order to secure and preserve evidence.

Employees, workers and external parties wishing to protect their identity may submit a report anonymously. However, it can be more difficult to assess and investigate anonymous allegations. Therefore, individuals who wish to make a report are encouraged to provide their contact details. MHA will treat all information received sensitively, and will limit disclosure of identifying information of the reporting individual to the maximum degree possible.

An employee or worker making a protected disclosure is protected from victimisation on the basis of the disclosure. The Act further provides that an employee or worker who suspects or reports a suspected dishonest activity must be afforded the opportunity to remain anonymous should he or she so require. MHA wishes to assure its employees, workers and external parties who blow the whistle on fraud or corruption that they will be protected in accordance with the provisions of the Act.

The Act does not protect false disclosures. MHA will not tolerate the reporting of allegations which are false and made with malicious intent. Where any such malicious or false allegations are discovered, the person who made the allegations will be subject to MHA's disciplinary procedures.

Where MHA's Compliance Officer and /or Head of Legal Risk and Compliance becomes aware of any material irregularity during the performance his or her duties, the Compliance Officer and/or Head



of Legal Risk and Compliance shall report his or her finding to MHA, and possibly to the Financial Sector Conduct Authority, subject to legislation and the guidelines on reporting material irregularities issued by the Compliance Institute of Southern Africa.

Any person reporting in good faith pursuant to this policy shall be protected from retaliation, in accordance with the Protected Disclosures Act (Act 26 of 2000) as amended, and the Whistle-blower Policy. The Act makes provision for the protection of employees and workers who make a disclosure that is protected in terms of the Act. Any disclosure made in good faith and substantially in accordance with any procedure prescribed in this policy is considered to be a protected disclosure under the Act.

MHA shall inform an employee or worker of the steps taken once a disclosure has been made. After receiving a protected disclosure, MHA shall, as soon as reasonably possible but within a period of 21 days after receiving the protected disclosure - decide whether to investigate the matter or refer the disclosure to another more appropriate person or body for investigation.

MHA shall acknowledge receipt of the disclosure in writing and inform the employee or worker of its decision to investigate the matter or to refer it to another person or body. If MHA decides not to investigate, reasons for doing so must be provided. If it will be investigated, a time frame for the investigation should be indicated where possible.

If MHA cannot make a decision within this time period, it will inform the employee or worker in writing of this and thereafter regularly (not more than 2 month-intervals) advise the employee or worker that the decision is still pending – however the decision will be made and communicated within a period of six months after the protected disclosure has been made.

The outcome of any investigation must also be communicated to the whistle-blower. MHA needs not comply with the above if the identity and contact details of the whistle-blower is not known; or need not advise an employee or worker of its decision on whether or not to investigate the relevant matter if *"it is necessary to avoid prejudice to the prevention, detection or investigation of a criminal offence"*.

### **3.2 Internal Controls:**

Where MHA has identified and assessed the risk of the illegal and unlawful conduct within the regular risk framework of the organisation, the governing body of MHA is required to develop appropriate measures in order to minimise the risk through the application of internal control procedures. Consistent with MHA's existing systems and policies, MHA shall establish measures in order to:

- Assess the probability/likelihood of the risk of illegal and unlawful conduct manifesting itself within MHA



- Assess the possible impact and reputational damage should MHA fall victim to instances of unlawful and illegal conduct
- Identify the areas of its operation that are most vulnerable to illegal and unlawful conduct
- Identify the actual or potential trends indicative of illegal and unlawful activities within MHA
- Exercise due diligence in verifying that any client or other external third party has not engaged in, and is not engaging in illegal and unlawful conduct
- Verify information received from clients and employees from other independent sources
- Exercise due care in managing client funds or other financial products
- Ensure the maintenance of fair and accurate accounting records
- Maintain accurate client file records and review client transactions
- Monitor, on a sample basis, client files related to the rendering of financial services
- Monitor correspondence, documents and other information related to other business activities that has relevance to the identification and prevention of unlawful and illegal conduct
- Encourage and provide positive support for the observance of ethics
- Inform clients and other third parties of MHA's commitment to abide by laws on the prohibition against unlawful conduct
- Ensure that contractual agreements with clients or other third parties expressly prohibit unlawful practices
- Exercise due diligence checks on prospective employees prior to appointment
- Cease any dealings with any party who is acting contrary to this policy
- Take prompt and reasonable action to recover misappropriated funds or losses suffered due to unlawful and illegal conduct
- Notify the appropriate authorities in the event where instances of illegal and unlawful conduct has been confirmed or reasonably suspected to have occurred

As a further internal control, MHA's employees and workers are expected to always be vigilant with regards to detecting instances of illegal and unlawful conduct. Potential indications that an individual may be susceptible to committing illegal and unlawful acts are:

- The person has unusually high personal debts
- The person is living beyond his or her means
- The person has excessive gambling habits
- The person suffers from alcohol or drug problems
- The person experiences undue family or peer pressure to succeed
- The person constantly communicates a feeling of being underpaid
- The person constantly communicates the insufficient recognition for his or her job performance
- The person has a "wheeler-dealer" type attitude and a desire to "beat the system"
- The person has a criminal record
- The person does not take vacations
- The person refuses to allow another individual access to an area of responsibility
- The person has an actual or potential conflict of interest
- The person constantly provides rationalisation for conflicting behavioural patterns
- The person is not truthful

### **3.3 False allegations:**

It is important to note that the protection extended to employees and workers by the Protected Disclosure Act is not unconditional. The Act sets the parameters of what constitutes a protected disclosure, as well as the manner of permissible disclosure by workers. The definition of "*disclosure*" clearly contemplates that it is only the disclosure of information that either discloses or tends to disclose forms of criminal or other misconduct that is the subject of protection under the Act. The disclosure must also be made in good faith. An employee who deliberately sets out to embarrass or harass an employer is not likely to satisfy the requirement of good faith.

*"It does not necessarily follow though that good faith requires proof of the validity of any concerns or suspicions that an employee may have, or even a belief that any wrongdoing has actually occurred. The purpose of the PDA would be undermined if genuine concerns or suspicions were not protected in an employment context even if they later proved to be unfounded. There is no doubt why disclosures made in general circumstances require in addition to good faith a reasonable belief in the substantial truth of the allegation. However more extensive the rights established by the PDA might be in the employment context, I do not consider that it was intended to protect what amounts to mere rumours or conjecture" (Communication Workers Union v Mobile Telephone Networks (Pty) Limited (Labour Court) CASE NO. JS803/03, per Van Niekerk, AJ)*

If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the complainant. NestLife will take all reasonable steps within its powers to ensure that the employee suffers no reprisal. If, however, a person makes an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against the employee and worker.

In the event that an employee or worker intentionally discloses false information (or when they should reasonably have known that it was false) with the intention to cause harm, and the affected party does suffer harm, this is considered a criminal offence in terms of the Act. Imprisonment of up to 2 years or a fine can be imposed. Disclosures should therefore not be based on mere speculation - such allegations can also have serious consequences for the company and persons implicated in the allegations.

### **3.4 Disclosures by employees or workers outside of MHA:**

Employees of MHA are subject to either an explicit or implied contractual term of confidence and trust which seeks to prevent them from disclosing MHA's confidential information. The breach of this condition could be regarded as gross misconduct which would justify summary dismissal.

All matters of concern must be raised internally in the first instance. The purpose of this is to give MHA every chance to investigate and take appropriate action before disclosure is in the public domain. Such disclosure would occur where employees consider that disclosure within MHA is inappropriate or has been unsuccessful. In such instances, employees or persons making disclosure outside of MHA are encouraged to do so in accordance with the provisions of the Protected Disclosure Act.



**3.5. Communication and Review of Procedures:**

The Head of Legal Risk and Compliance will ensure that the procedures have been widely distributed and communicated to all staff and that appropriate staff and executive awareness measures and activities are introduced by MHA. The Head of Legal Risk and Compliance will report to the Governing Body with regard to the effectiveness of these measures.

**4. LEGISLATIVE COMPLIANCE**

MHA is required to manage its policy documentation within its legislative framework as recorded within the Compliance Risk Management Framework.

Protected Disclosures Act 26 of 2000 (as amended Aug 2017)

**5. APPROVAL STRUCTURES**

Approval required by Board of Directors and Executive Management.

**6. POLICY SPONSOR**

Head of Legal Risk and Compliance

**7. CONTACT PERSON**

The following person may be contacted in relation to this policy:

Penny Spentzouris

Head of Legal Risk and Compliance

[penny@nhb.co.za](mailto:penny@nhb.co.za)