

**IN THE ENFORCEMENT COMMITTEE ESTABLISHED IN TERMS OF
SECTION 10(3), READ WITH 10A OF THE FINANCIAL SERVICES
BOARD ACT, 97 OF 1990**

CASE NO: 17/2011

In the matter of:

THE DIRECTORATE OF MARKET ABUSE

The Applicant

and

FABIAN, ARIE PAUL

Respondent

ORDER

WITH DUE CONSIDERATION to the settlement agreement attached hereto and in terms of section 6B(7)(a) of the Financial Institutions (Protection of Funds) Act, No. 28 of 2001, I hereby determine that the Respondent contravened section 75 of the Securities Services Act, No 36 of 2004, and impose a penalty of R250 000. The remaining terms and conditions of the settlement agreement are incorporated and made an order of the Enforcement Committee.

I make no order regarding costs.

Signed at **PRETORIA** on the ^{27th}..... day of **JULY 2011**.



C F Eloff

Chairperson of the Enforcement Committee

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**SETTLEMENT AGREEMENT IN TERMS OF SECTION 6B(7)(a)
OF THE FINANCIAL INSTITUTIONS (PROTECTION OF
FUNDS) ACT, 28 OF 2001**

1. The parties

- 1.1. The Directorate of Market Abuse ("DMA") is a committee of the Financial Services Board ("FSB"), established in terms of section 83(1) of the Securities Services Act, No 36 of 2004, read with section 12 of the now repealed Insider Trading Act, No 135 of 1998. The DMA is the Applicant in this matter. The Applicant is herein represented by Cuthbert King Chanetsa, the Deputy Executive Officer of Investment Institutions of the FSB, and the Acting Chairperson of the DMA.

1.2. Mr Arie Paul Fabian, an adult male businessman, is the Respondent in this matter.

2. Background information to the agreement

2.1. During the period 17 October 2008 and 24 July 2009, Jeffdee Clothing (Pty) Limited ("Jeffdee") conducted 51 manipulative transactions in Dialogue Holdings Limited ("Dialogue") shares which had the effect of increasing the closing price of the shares.

2.2. The Enforcement Committee considering this matter was established on 1 November 2008, and has jurisdiction from that date to make determinations with regard to contraventions of any FSB law, including a contravention of section 75 of the Securities Services Act.

2.3. Three of the 51 transactions referred to in paragraph 2.2, occurred before 1 November 2008, and are therefore not part of this settlement agreement.

2.4. The Respondent, a director of Jeffdee, was the only person authorised to trade on the account. All the relevant transactions took place through the stockbroking offices of



Peregrine Equities (Pty) Limited, and through a direct market access system that allowed the Respondent to enter orders directly into the market.

2.4.1. Jeffdee held over 12 million CFD's (Contracts for Difference) in Dialogue shares during the period of this investigation. Jeffdee's transactions had a direct impact on the closing price of Dialogue shares, which in turn had a direct impact on the variation margins payable by Jeffdee in respect of the Dialogue CFDs. In most instances Jeffdee received a positive cash flow on its variation account and avoided the impact of negative variation margin on the CFD contracts.

3. The contravention

3.1. The Respondent admits that, on the dates as per column 1 of Annexure "A", he purchased Dialogue shares as per column 2 of Annexure "A", for Jeffdee. These transactions amounted to a manipulative practice, which practice created an artificial price for Dialogue shares.

4. The mitigating circumstances

4.1. It is been agreed that the following mitigating factors are relevant to the matter:

4.1.1. The Respondent was an inexperienced market participant;

4.1.2. His involvement in the case was as a result of him accommodating a friend;

4.1.3. With regard to the CFD positions of Jeffdee, a loss of approximately R1,2 million was sustained;

4.1.4. The Respondent's trading was a relatively brief and isolated activity which he regrets; and

4.1.5. The Respondent co-operated fully with regard to the enforcement action against him.

5. The agreed penalty

5.1. In the light of the above, and in terms of section 6B(7)(a) of the FI Act (Financial Institutions (Protection of Funds))

7/1/23



Act, No 28 of 2001), the parties have agreed that the Respondent will pay a penalty of R250 000 in settlement of the matter, on or before 31 August 2011.

5.2. The parties humbly request that the Honourable Chairperson makes the settlement an order, as envisaged in section 6B(7)(b) of the Financial Institutions (Protection of Funds) Act.

6. Other conditions

6.1. This agreement is subject to approval by the Enforcement Committee and the parties specifically record that they are aware of the possibility that the Enforcement Committee may not accept the terms of this agreement.


6.2. If the Respondent does not comply with the terms of this agreement and it is necessary for the FSB to proceed with legal proceedings, the Respondent herewith consents to pay all legal costs to the FSB on the Attorney and Client scale in terms of the High Court Rules inclusive of collection commission and Value Added Tax.


6.3. Any receipt of a payment by the FSB after the due date shall be without prejudice to any of the rights of the FSB.

6.4. For purposes of the notification in terms of section 6E of the FI Act, the Respondent elects to receive notification via e-mail at arie@fabiani.co.za and/or vmitchell@mostertlaw.com.


6.5. This agreement constitutes the whole agreement between the parties in respect of the offer to pay a penalty.

Signed at PRETORIA on 25th July on behalf of the Directorate of Market Abuse.


.....
C K Charetza


.....
Witness

Signed at ~~Cape Town~~ on 19th July 2011 on behalf of the Respondent.


.....
A P Fabian
.....
Witness

Annexure A

Date	Jeffdee Volumes purchased
2008/10/17	3,300
2008/10/20	1,000
2008/10/23	500
2008/12/09	1,000
2008/12/11	22,000
2008/12/12	1,000
2008/12/17	5,000
2008/12/18	5,000
2008/12/19	5,000
2008/12/31	20,000
2009/01/05	2,000
2009/01/06	2,000
2009/01/09	250
2009/01/14	750
2009/01/15	500
2009/01/20	26,000
2009/01/21	7,000
2009/01/22	500
2009/02/13	10,000
2009/02/20	40,000
2009/02/24	105,000
2009/02/26	10,000
2009/03/04	50,000
2009/03/09	25,000
2009/03/11	5,000
2009/03/17	10,000
2009/03/20	5,000
2009/03/24	5,000
2009/03/26	5,000
2009/04/02	5,000
2009/04/03	5,000
2009/04/06	5,000
2009/04/07	500
2009/04/08	100
2009/04/09	200
2009/04/14	3,000
2009/04/24	500
2009/04/28	500
2009/05/04	500
2009/05/15	500

AD

Date	Jeffdee Volumes purchased
2009/05/20	10,000
2009/05/22	5,000
2009/06/01	1,000
2009/06/25	1,000
2009/07/01	1,000
2009/07/02	1,000
2009/07/14	1,000
2009/07/15	
2009/07/21	1,000
2009/07/23	1,000
2009/07/24	1,000

