

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

CASE NO: **31/2011**

In the matter of:

**THE REGISTRAR OF PENSION FUNDS**

Applicant

and

**LEREKO METIER CAPITAL GROWTH  
FUND MANAGERS (PTY) LIMITED**

Respondent

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**ORDER**

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WITH DUE CONSIDERATION to the settlement agreement (attached marked annexure "A") 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 13B(1) of the Pension Funds Act, No. 24 of 1956 read with conditions 7.2 and 7.3 as determined in Board Notice 24 of 2002 for the year-ended 31 December 2009 and contravened condition 7.3 for the year-ended 31 December 2010 and impose a combined penalty of R70 000 to be paid on or before 23 September 2011. 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 15 September 2011.



C F Eloff

Chairperson of the Enforcement Committee.

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FUND MANAGERS (PTY) LIMITED**

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

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**PARTIES TO THE AGREEMENT**

1. The parties to this agreement are the Registrar of Pension Funds  
("the Registrar") herein represented by Jurgen Arnold Boyd in his  
capacity as the Deputy Registrar of Pension Funds;

and

Lereko Metier Capital Growth Fund Managers (Pty) Limited, a  
company duly registered and incorporated in accordance with the

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company laws of South Africa bearing registration number 2004/033161/07 ("Respondent"). The Respondent is represented by Paul Christopher Botha in his capacity as a director of the Respondent, and who warrants that he is authorized by the Respondent to conclude this agreement. The Respondent is approved by the Registrar as an administrator in terms of section 13B(1) of the Pension Funds Act, No 24 of 1956 ("the Act").

#### **WHEREAS**

2. The Registrar is of the opinion that the Respondent contravened section 13B(1) of the Act read with condition 7.3 as determined in Board Notice 24 of 2002.
3. The Respondent wishes to enter into a settlement agreement with the Registrar as contemplated in section 6B(7)(a) of the Financial Institutions (Protection of Funds) Act, No 28 of 2001 ("the FI Act").

#### **NOW THEREFORE IT IS AGREED AS FOLLOWS**

4. It is agreed between the parties that the Respondent contravened section 13B(1) of the Act read with conditions 7.2 and 7.3 as determined in Board Notice 24 of 2002, in that during the year-ended 31 December 2009 it failed to maintain sufficient current

assets to meet its current liabilities and also failed to maintain liquid assets equal to or greater than 8/52 of its annual expenditure. Also during the year-ended 31 December 2010 it contravened section 13B(1) of the Act read with conditions 7.3 as determined in Board Notice 24 of 2002, in that it failed to maintain liquid assets equal to or greater than 8/52 of its annual expenditure.

5. In the light of the above, the parties have agreed that the Respondent will pay a combined penalty of R70 000 on or before 23 September 2011, in settlement of the matter.
6. This agreement is subject to the approval of 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.
7. If the Respondent does not comply with the terms of this agreement and the Registrar institutes legal proceedings to enforce the agreement, the Respondent consents to pay all legal costs to the Registrar on the Attorney and Client scale.
8. No leniency or postponement given by the Registrar to the Respondent or any amendment to the terms and conditions of this agreement will be binding unless such postponement, leniency or

amendment is reduced to writing and signed by the parties. Any leniency, postponement granted by the Registrar or any amendment to this Agreement shall not be a novation of the cause of action in terms whereof the Respondent was found to have contravened the Act.

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

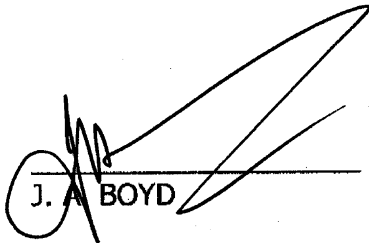
10. The parties choose as their domicilium citandi et executandi their respective addresses set out below for all purposes arising out of or in connection with this agreement at which addresses all the processes and notices arising out of or in connection with this agreement, its breach or termination may validly be served upon or delivered to the parties. For the purpose of this agreement the parties' respective addresses shall be:

10.1. Financial Services Board  
Block B, Riverwalk Office Park  
41 Matroosberg Road  
Ashlea Gardens ext 6  
Pretoria  
0081

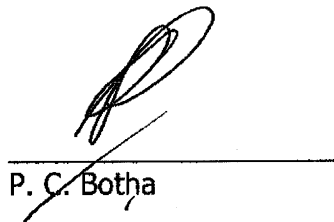
10.2. Respondent:  
2<sup>nd</sup> Floor  
5 Commerce Square  
39 Rivonia Road  
Sandhurst  
2196

11. The parties humbly request that the Honorable Chairperson makes  
the settlement an order, as envisaged in section 6B(7)(b) of "the FI  
Act".

Signed at PRETORIA on 13 September 2011 on behalf of the  
Registrar.

  
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J. A. BOYD

Signed at Sandhurst on 13 September 2011 on  
behalf of Lereko Metier Capital Growth Fund Managers (Pty) Limited

  
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P. C. Botha