

**IN THE PROCEEDINGS BEFORE THE ENFORCEMENT COMMITTEE
ESTABLISHED IN TERMS OF SECTION 97 OF THE SECURITIES
SERVICES ACT, 36 OF 2004**

CASE NO: 9/2008

In the matter of:

THE DIRECTORATE OF MARKET ABUSE

The Referring Party

and

10 **ASSORE LIMITED**

Respondent

DETERMINATION OF THE ENFORCEMENT COMMITTEE

Before The Hon Mr Justice C F Eloff, E A Moolla, R G Cottrell, Ms C Dlepu, Ms C Maynard, A Mazwai and H M S Msimang

The Hon Mr Justice C F Eloff: The respondent, a company listed on the
20 Johannesburg Stock Exchange, is charged by the Directorate of Market
Abuse, care of the Financial Services Board, with the commission of
insider trading in terms of Section 73(i)(a) of the Security Services Act 36
of 2004.

The conduct complained of was that while the respondent was an insider
whose directorate was aware of what appeared from the management
accounts of the respondent and particularly that the information contained
in the accounts constituted unpublished, specific sensitive information,
purchased a total of 86 056 of its own securities that were listed on the

JSE. The Senior Executive Officer of the respondent made an affidavit in which he admitted the essential components of the charge and that the conduct of the Chairperson constituted insider trading.

In mitigation it is stated that the respondent had approved the share repurchase scheme and the shares were purchased in pursuance thereof. It says that it derived no specific profits from the transaction, but it concedes that it had achieved a saving thereby when respondent's stockbrokers reported that an unusually large line of shares became
10 available in the market. It realised that it had contravened an Act and at once reported it to the regulatory authority. It tenders a compensation amount of R2,5 million.

The question whether the circumstances were aggravating or mitigating and what balance should be achieved to address both these considerations is one that is not free from difficulty. The difficulty becomes so much more if one has to translate that into a figure of rands and cents.

While this committee takes note of the question that whether there were
20 more aggravating than mitigating circumstances, it is faced with the difficulty of giving effect to that in a higher figure than the R2.5 million suggested. It is also to be noted that no steps appear to be taken against the persons in the company responsible for this. It is not for this committee to pronounce on that question, but it merely records its concern with the

question whether appropriate steps were taken against those persons responsible.

The spokesman of the Directorate of Market Abuse informs the committee that it has no objection to the imposition of the suggested compensation amount. It sets out how it will endeavour to use the said amount to compensate all claimants. The committee considers that the attitude of the DMA is to be supported. The compensatory amount is considered to be adequate and it's to be dealt with in terms of Section 108 of the Act.

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The committee resolves that the respondent indeed contravened the Act and it ordered to pay a compensatory amount of R2.5 million by 31 December 2008. There will be no order as to costs.

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CHAIRPERSON**27 November 2008**