

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

CASE NO: **13/2008**

In the matter of:

**THE DIRECTORATE OF MARKET ABUSE**

The Referring Party

and

10 **CULL, KATE ASHLEY**

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*

20 *The Hon Mr Justice C F Eloff:* The respondent is charged by the Directorate of Market Abuse, care of the Financial Services Board, with the commission of manipulative, improper, false or deceptive trading practice in contravention of Section 75 of the Security Services Act 36 of 2004.

The manner in which the trading practice in question was conducted was, according to the Directorate, by instructing two junior equities traders of the company Noah Financial Innovations (Pty) Limited by whom the respondent was employed, to enter fictitious put through instructions on the JSE trading system, thus creating the impression that the shares of the

listed company Imperial Limited were traded at higher prices and inflating the VWAP of their shares.

The respondent made explanatory admissions in which she acknowledged her wrongdoing and admitted the essential components of the charge brought against her. She listed a number of mitigating factors and in terms of Section 103 of the Act tendered payment of R25 000.00 as a penalty.

10 The Directorate has intimated that it has no objection to the suggested penalty.

The committee considers that the contravention and the discussion is very serious and calls for the imposition of severe penalties. However, the mitigating factors weigh heavily. The respondent lost her employment with Noah. Her prospects in her chosen field of endeavour are poor. She took it on herself to report her conduct, but for which the conduct of the two junior traders would have gone unnoticed. She has a clean record and neither she nor Noah derived any advantage from her conduct.

20 The committee also takes note of information given by the DMA that this lady was in a position to give very important information concerning other matters and other possible contraventions and but for that, those might have gone unnoticed. The present case is a hard one. The contravention is very serious, but the personal circumstances of the person concerned

have, in terms of the Act, to be considered and they dictate a less serious view that otherwise would have been proper.

The committee resolves that the respondent indeed contravened Section 75 and it imposes a penalty of R25 000.00. No order as to costs.

10



---

**CHAIRPERSON**

**27 November 2008**