

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

CASE NO: 5/2008

In the Matter of:

**THE DIRECTORATE OF MARKET ABUSE**

The Referring Party

10 And

**DAVIES, BRENDON STEPHEN**

Respondent

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**DETERMINATION OF THE ENFORCEMENT COMMITTEE**

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*Before The Hon Mr Justice C F Eloff, E A Moolla and Ms C Maynard.*

20 *The Hon Mr Justice C F Eloff:* I am C F Eloff. I am Chairman of the Enforcement  
Committee. This matter was duly referred to this Committee for consideration.  
The panel of the Committee was briefed with a copy of the particulars of the  
charge, together with an affidavit by the respondent, Mr B S Davies, and also a  
report of the Directorate of Market Abuse.

In his affidavit, the respondent acknowledges receipt of the charge and  
proceeds to make a number of admissions. Those admissions plainly  
established an acknowledgement of insider trading and the panel finds that the  
respondent contravened Section 73 of the Act.

It remains to consider the question of the administrative penalty. In his affidavit the respondent tenders an amount of R36 000.00. The Director of Market Abuse does not oppose the imposition of a penalty of that order and I think it important to set out the reasoning adopted by the Director of Market Abuse. In paragraph 5.1 the following is said and I quote *“the penalty of the respondent has been calculated on the assumption that he made an unrealised profit as a result of his offending transactions, totalling R12 000.00. The calculation is made on the basis that the respondent purchased 80 000 Moribo shares on*  
10 *5 September 2005 at 10c per share and could have sold those shares at 25c per share (the closing price of the Moribo shares on 12 September 2005). 5.2, in addition a penalty of twice the respondent’s unrealised profit has been added, bringing the grand total of the respondent’s penalty to R36 000.00”*.

The affidavit of the Directorate of Market Abuse also states, and I think this is supported by the facts of the case, that *“6.1, the calculations above had been made in accordance with the provisions of Section 77 of the Act that deals with the statutory civil action against offenders. Section 105(3) extends jurisdiction of the honourable Enforcement Committee to deal with the matter as if it was a*  
20 *civil action in terms of Section 77. 6.2, in addition Section 77 authorises the Financial Services Board to distribute these penalties as set out in that section”*.

It seems to the panel that in view of these circumstances there is adequate support for fixing an amount of R36 000.00. Accordingly the panel finds the

respondent guilty as charged and imposes an administrative penalty of  
R36 000.00.

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**CHAIRPERSON**

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**31 March 2008**