

**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: **19/2009**

In the matter of:

**THE REGISTRAR OF COLLECTIVE
INVESTMENT SCHEMES**

Applicant

and

**ANDRE CILLIE CAPITAL MANAGEMENT
(PTY) LIMITED**

Respondent

ORDER

WITH DUE CONSIDERATION to the settlement agreement in terms of section 6B(7)(a) of the Financial Institutions (Protection of Funds) Act, No 28 of 2001 (the FI Act), I hereby determine that the Respondent has contravened section 65(3) of the Collective Investment Schemes Control Act, No 45 of 2002, and impose a penalty of R10 000 on the Respondent.

Furthermore, in terms of section 6D of the FI Act, the parties agreed that the Respondent, as part of the aforementioned determination, will pay cost in an amount of R114 000.

The remaining terms and conditions of the settlement agreement are incorporated and made an order of the Enforcement Committee.

Signed at **PRETORIA** on the 9..... day of **DECEMBER 2013**.


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C F Eloff

Chairperson of the Enforcement Committee

**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: 20/2013

In the matter of:

**THE REGISTRAR OF COLLECTIVE
INVESTMENT SCHEMES**

Applicant

and



**ANDRE CILLIE CAPITAL MANAGEMENT
(PTY) LIMITED**

Respondent

**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 Applicant is the Registrar of Collective Investment Schemes ("the Registrar") herein represented by Jurgen Boyd in his capacity as the Deputy Registrar of of Collective Investment Schemes; and
- 1.2. The Respondent is Andre Cillie Capital Management (Pty) Limited ("ACCM") a duly registered private company as contemplated in the Companies Act 71 of 2008, (2007/030531/07). The Respondent is an authorised financial services provider, in terms of the Financial Advisory and Intermediary Services Act, No 37 of 2002, with FSP number 43007.
- 1.3. ACCM is herein represented by Andre Cillie ("Cillie") the Managing Director and key individual of ACCM and who


A.C


warrants that he is authorised by the Respondent to conclude this agreement.

2. The contraventions

2.1. It is agreed between the parties that ACCM contravened the following:

2.1.1. Section 65(3) of the Collective Investment Schemes Act, No 45 of 2002 (CISCA) in that:

2.1.1.1. ACCM solicited investment in an unregistered foreign collective investment scheme.


2.2. ACCM has an investment advisory relationship with two offshore collective investment schemes namely Fountainhead Expert Fund (Expert Fund), an incorporated cell of Reinet ICC in Jersey, Channel Islands and Fountainhead Partner's Fund (Partners Fund) incorporated in Guernsey.

2.3. During the period March 2010 until October 2013 ACCM actively introduced the Expert Fund and the Partners Fund to members of the public by way of presentations and displaying the name of the funds on its business premises.

3. The mitigating circumstances

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

3.1.1. ACCM did not receive remuneration for the introduction of clients to the fund;



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- 3.1.2. No loss was suffered by investors as a result of the contravention;
- 3.1.3. ACCM fully cooperated with the Registrar during the enforcement process;
- 3.1.4. ACCM removed the name of the fund on its business premises and ceased to do presentations on the fund;
- 3.1.5. Only 5 clients entered the fund due to ACCM's presentations, and only an amount of approximately R200 000 was invested.

4. The agreed penalty

- 4.1. In the light of the above, and in terms of section 6B (7) (a) of the Financial Institutions (Protection of Funds) Act, No 28 of 2001, the parties have agreed that ACCM will pay a penalty of R10 000 and a contribution to the costs of the Registrar in the amount of R114 000 in settlement of the matter.
- 4.2. The parties humbly request that the Honorable Chairperson makes the settlement an order, as envisaged in section 6B (7) (b) of the Financial Institutions (Protection of Funds) Act.

5. Other conditions

- 5.1. 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.
- 5.2. If ACCM does not comply with the terms of this agreement and it is necessary for the FSB to proceed with legal proceedings, ACCM herewith consents to pay all legal costs



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to the FSB on the Attorney and Client scale in terms of the High Court Rules inclusive of collection commission and Value Added Tax.

- 5.3. No leniency or postponement given by the FSB to ACCM 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.
- 5.4. Any receipt of a payment by the FSB after the due date shall be without prejudice to any of the rights of the FSB.
- 5.5. This Agreement shall not be a novation of the cause of action in terms whereof ACCM was found to have contravened the Act.
- 5.6. This agreement constitutes the whole agreement between the parties in respect of the contraventions referred to in 2 above and the penalty.
- 5.7. The parties choose as their *domicilium citandi et executandi* their respective address 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. However the notice contemplated in terms of section 6E of the FI Act may be delivered by electronic email. For the purpose of this agreement the parties' respective addresses shall be:

5.7.1. Financial Services Board:

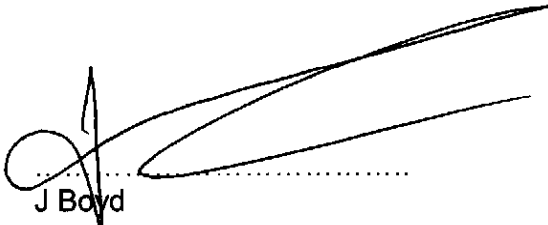
Handwritten signature and initials. The signature is a stylized, cursive mark. Below it, the initials 'AC' are written in a simple, blocky font.

Johannes.vandeventer@fsb.co.za

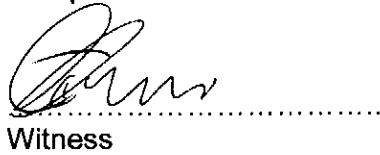
5.7.2. Respondent:

andre@fhpartners.co.za

Signed at **Pretoria** on 6 December 2013 on behalf of the Applicant.

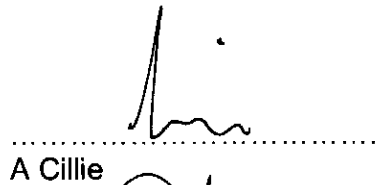


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J Boyd

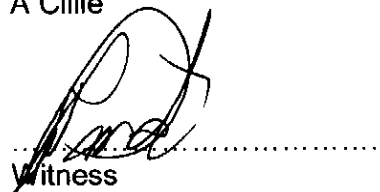


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Witness

Signed at Pretoria on 06 Dec 2013 on behalf of the Respondent.



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A Cillie



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Witness