

IN THE PROCEEDINGS BEFORE THE ENFORCEMENT COMMITTEE

CASE NO: **EC 05/2016**

In the matter of:

THE DIRECTORATE OF MARKET ABUSE

Applicant

and

ANTHONY VAN MARKEN

Respondent

ORDER

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 75(1) of the Securities Services Act, 36 of 2004 .

I hereby impose a penalty inclusive of costs of R500 000 to be paid by the Respondent within 90 (ninety) calendar days after the agreement has been made an order.

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

Signed at **PRETORIA** on the ²¹..... day of **APRIL 2016**



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C F Eloff
Chairperson of the Enforcement Committee

**IN THE PROCEEDINGS BEFORE THE
ENFORCEMENT COMMITTEE**

CASE NO:

In the matter of:

THE DIRECTORATE OF MARKET ABUSE

The Referring Party

and

ANTHONY VAN MARKEN

Respondent

**ADMISSIONS BY THE RESPONDENT IN TERMS OF SECTION 103(1) OF
THE SECURITIES SERVICES ACT, NO 36 OF 2004, AND AGREEMENT TO
PAY A PENALTY**

The Respondent hereby make the admissions as set out in paragraphs 2 and 4 below and offers and agrees to pay the penalty as set out in paragraph 5 below.

1. The Enforcement Committee

1.1 The Enforcement Committee is established by the Financial Services Board ("the board"), in terms of Section 97 of the Securities Act.

1.2 The board is a juristic person, established in terms of Section 2 of the Financial Services Board Act, 97 of 1990.

1.3 These proceedings are:

1.3.1 referred to the Enforcement Committee in terms of Section 94(e) of the Securities Services Act, No 36 of 2004 ("Securities Act"), to be dealt with in accordance with Sections 102 to 105 thereof; and

1.3.2 at all relevant times, governed by the Securities Act.

1.4 Sections 97 to 106 have been repealed by Section 72 of the Financial Services Laws General Amendment Act 22 of 2008 ("the Act"), but remain of effect for purposes hereof.

1.5 The Directorate of Market Abuse ("the Referring Party") referred these proceedings, in terms of Section 94(e) of the Securities Act, to the Enforcement Committee.

2. Vox Telecom Limited

2.1 At all material times hereto:

2.1.1 Vox Telecom Limited ("Vox") shares were listed securities as envisaged by Section 75(1) read with Section 1 of the Securities Act; and

2.1.2 the Respondent was employed as the Chairman of Vox.

3. The manipulation of the Vox closing share price

3.1 During the period 8 January 2008 to 15 September 2008 Vox shares uncrossed during the daily closing auction after orders to buy the Vox shares were sometimes entered at prices that were successively higher than the last automated trade for that particular day and at or near the close of the market ("the Practice").

3.2 As a result of the implementation of the Practice, the Vox closing share price was manipulated through a prohibited trading practice, as envisaged by Section 75(1) of the Securities Act ("the Prohibited Trading Practice").

3.3 Dealstream Securities (Pty) Limited ("Dealsteam") was approved by the JSE as a broking and non-clearing financial derivatives and products member of the JSE.

3.4 Russell Owen Leigh ("Leigh"), through Dealstream, acted as the broker for Vox, the Respondent, certain Vox employees as well as Dealstream private clients.

3.5 Dealstream on a proprietary basis, and on behalf of private clients, certain Vox employees and the Respondent, held Vox Contracts for Difference ("CFDs") and were therefore exposed to movement in the Vox share price.

3.6 Leigh and certain Dealstream employees entered orders to buy Vox shares at prices that were successively higher than the last automated trade for that particular day and at or near the close of the market.

4. The participation in the Practice by the Respondent

4.1 During the period 8 January 2008 to 15 September 2008, the Respondent:

4.1.1 was a director of Vox, a listed company;

4.1.2 from time to time relied on Leigh's advice relevant to the Vox share price;

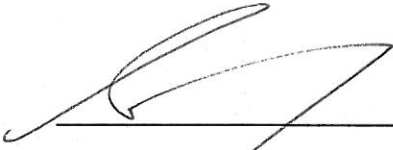
4.1.3 communicated with Leigh and he (Leigh) on occasion informed the Respondent of the movement in the Vox share price;

4.1.4 on occasion encouraged Leigh's conduct.

5. The administrative penalty

5.1 In the light of all the circumstances, the Respondent hereby tenders to pay to the board, within ninety (90) calendar days of this agreement being made an order, a penalty of R500,000.00, which amount includes a contribution to the costs of the Referring Party, which tender the Referring Party accepts.

SIGNED AT PRETORIA on the 19th day of APRIL 2016



FOR THE DIRECTORATE OF MARKET ABUSE

SIGNED AT Cape Town on the 1st day of April 2016



ANTHONY VAN MARKEN