

**IN THE PROCEEDINGS BEFORE THE ENFORCEMENT COMMITTEE  
ESTABLISHED IN TERMS OF SECTION 10(3) OF THE FINANCIAL  
SERVICES BOARD ACT, NO.97 OF 1990**

CASE NO: **EC 28/2015**

In the matter of:

**THE DIRECTORATE OF MARKET ABUSE**

First Applicant

**FINANCIAL SERVICES BOARD**

Second Applicant

and

**TREVOR CLYDE COKAYNE**

Respondent

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**ORDER**

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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 80 (1) (b) of the Financial Markets Act, No. 19 of 2012.

I hereby impose a penalty inclusive of costs of R10 000 to be paid by the Respondent on or before 30 November 2015.

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

Signed at **PRETORIA** on the 26 day of November **2015**



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**C F Eloff**  
**Chairperson of the Enforcement Committee**

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Annex A  
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BOARD ACT, NO 97 OF 1990**

**CASE NO: 28/2015**

In the matter between:

**DIRECTORATE OF MARKET ABUSE**

**FIRST APPLICANT**

**FINANCIAL SERVICES BOARD**

**SECOND APPLICANT**

and

**TREVOR CLYDE COKAYNE**

**RESPONDENT**

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**SETTLEMENT AGREEMENT IN TERMS OF SECTION 6B (7)(a) OF THE  
FINANCIAL INSTITUTIONS (PROTECTION OF FUNDS) ACT 28 OF 2001**

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**1. Introduction**

- 1.1. The Directorate of Market Abuse (the First Applicant) exercised its powers in terms of section 85 (1) (c) of the Financial Markets Act, 19 of 2012 (the FMA) and investigated a transaction by Mr Trevor Clyde Cokayne (the Respondent) in the shares of Micromega Holdings Limited (Micromega) on 12 July 2013.
- 1.2. The First Applicant's investigation concluded that the Respondent had contravened section 80 (1) (b) of the FMA (prohibited trading practices). Upon completion of the investigation the First Applicant as empowered by section 6A (2) of the Financial Institutions (Protection of Funds) Act, No.28 of 2001 (the FI Act) referred the matter against the Respondent to the Enforcement Committee of the Financial Services Board. The Applicants seek an administrative penalty to be imposed on the Respondent.



1.3. The Respondent wishes for the matter to be dealt with by way of a settlement agreement as contemplated by section 6B (7) (a) of the FI Act.

1.4. The parties have agreed to the facts set out hereunder.

**2. The parties to the agreement**

2.1. The First Applicant is the DMA, a committee of the Financial Services Board (FSB) established in terms of section 85 of the FMA. The DMA exercises the powers of the FSB to investigate matters relating to market abuse offences.

2.2. The Second Applicant is the FSB, a juristic person established in terms of section 2 of the Financial Services Board Act, No 97 of 1990. The functions of the FSB are *inter alia* to supervise and enforce compliance with the laws relating to financial institutions and the provision of financial services.

2.3. The First and Second Applicants are herein represented by Cuthbert King Chanetsa, the Deputy Executive Officer of Investment Institutions of the FSB, and the Acting Chairperson of the DMA.

2.4. The Respondent is Trevor Clyde Cokayne, an adult male residing at c/o Regent Hill Office Park, Corner Leslie and Turley Roads, Lonehill, Gauteng.

**3. The Contravention**

3.1. At all relevant times hereto the Micromega share was listed on the Johannesburg Stock Exchange, which is a regulated market as contemplated in section 77 of the FMA.

3.2. At 14:59:44 on 12 July 2013 the Respondent placed the following orders on the JSE central order book:



| <b>Account name: MI Pres Prov - Cokayne</b> |             |              |                 |                  |
|---|-------------|--------------|-----------------|------------------|
| <b>Broker: Investec Securities Ltd</b>      |             |              |                 |                  |
| <b>Account number: 1250018</b>              |             |              |                 |                  |
| <b>Date</b>                                 | <b>Time</b> | <b>Order</b> | <b>Quantity</b> | <b>Price (c)</b> |
| 12 July 2013                                | 14:59:44    | Buy          | 5 000           | 131              |
| <b>Account name: LM Cokayne</b>             |             |              |                 |                  |
| <b>Broker: Investec Securities Ltd</b>      |             |              |                 |                  |
| <b>Account number: 1223551</b>              |             |              |                 |                  |
| <b>Date</b>                                 | <b>Time</b> | <b>Order</b> | <b>Quantity</b> | <b>Price (c)</b> |
| 12 July 2013                                | 14:59:44    | Sell         | 5 000           | 131              |

- 3.3. The bid and the offer matched immediately, and the transaction caused the Micromega share price to decline from its prior day closing price of 215cps to a price of 131cps.
- 3.4. The respondent affected a transaction to take place at 131cps in order to realise the maximum tax benefit.
- 3.5. The transaction did not result in a change in the beneficial ownership of the 5 000 shares and it created an artificial price for the Micromega share. The respondent did not intend for the transaction to create an artificial price for the Micromega shares but admits that the reasonable person in his position ought to have known that.
- 3.6. In the circumstances as detailed above, the Respondent admits that he contravened Section 80(1)(b) of the FMA.

4. **Mitigating Circumstances**

The parties record that the following constitute mitigating circumstances which have been taken into consideration in this matter:

- 4.1. The Respondent's transaction was a single transaction and the Micromega share price recovered shortly thereafter. No party suffered any harm by the setting of an artificial price as set out above.
- 4.2. The Respondent's main purpose with the transaction was to reduce the number of small investments that were held on the LM Cokayne account in the most tax beneficial manner, and it was not to affect other market participants in any manner whatsoever.
- 4.3. The Respondent has accepted responsibility for his actions and has shown deep remorse for having contravened the FMA and has implemented administrative procedures and has undertaken to ensure that he acts with due care and diligence in the future when trading in securities so that a similar transgression does not again occur.
- 4.4. The Respondent has fully co-operated during the investigation and took a proactive role to reach a settlement, thereby saving the resources and time of the Applicants and the Enforcement Committee.
- 4.5. The Respondent has not been found to have previously breached any provisions of the FMA by the EC.

**5. The Agreed Penalty**

- 5.1. The Respondent hereby tenders to pay a penalty of R10 000 (ten thousand rand) on or before the 30<sup>th</sup> November 2015.
- 5.2. The Applicants have accepted the amount offered by the Respondent is subject to approval by the Enforcement Committee.

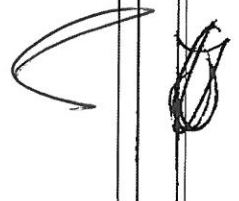


5.3 Wherefore the parties humbly request that the honourable Enforcement Committee make the agreement an order as envisaged in section 6B (7) (b) of the FI Act.

**6. Other Conditions**

- 6.1. The parties acknowledge that this agreement is subject to the approval of the Enforcement Committee and the parties further specifically record that they are aware of the possibility that the Enforcement Committee may not accept the terms of this agreement. In such an event this agreement will be null and void and neither party will have any rights or obligations in terms hereof nor will this document be capable of being used in any proceedings against the Respondent in the future.
- 6.2. No leniency or postponement given by the DMA or the FSB to the Respondent 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. .
- 6.3. The agreement constitutes the whole agreement between the parties in respect of the offer to pay an administrative penalty.
- 6.4. The parties select the addresses below as their *domicilium citandi et executandi* for the purposes of service of the Enforcement Committee order and for any notice or pleading related to a breach of this agreement. However the notice contemplated in terms of section 6E of the FI Act shall be delivered by electronic email. For the purpose of this agreement the parties' respective addresses shall be:

6.4.1. The Directorate of Market Abuse  
c/o The Financial Services Board  
Block B, Riverwalk Office Park



41 Matroosberg Road  
Ashlea Gardens  
Pretoria

6.4.2. The Respondent  
c/o SALANT ATTORNEYS  
7 Park Street  
Bedfordview  
By email: [jsalant@global.co.za](mailto:jsalant@global.co.za)

Signed at Pretoria on this the <sup>25<sup>th</sup></sup> ..... day of November 2015.



FOR AND ON BEHALF  
OF THE APPLICANTS

Signed at Randburg on this the <sup>23<sup>RD</sup></sup> ..... day of November 2015.



TC COKAYNE