

**IN THE ENFORCEMENT COMMITTEE ESTABLISHED IN TERMS OF
SECTION 10(3), READ WITH SECTION 10A OF THE FINANCIAL
SERVICES BOARD ACT, 97 OF 1990**

CASE NO: **09/2014**

In the matter of:

THE DIRECTORATE OF MARKET ABUSE
and

Applicant

COMAIR LIMITED
(Registration number 1967/006783/06)

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 81 of the Financial Markets Act, 19 of 2012 and impose a penalty of R70 000. I also order the Respondent to pay the costs of the investigation and enforcement action in the amount of R30 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 *28th* day of **MAY 2014**.


.....
C F Eloff

Chairperson of the Enforcement Committee

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In the matter of:

DIRECTORATE OF MARKET ABUSE

Applicant

and

COMAIR LIMITED

Respondent

(Registration number: 1967/006783/06)

**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 parties to the agreement are the Directorate of Market Abuse ("the Directorate") herein represented by Mr. Cuthbert King Chanetsa in his capacity as the Deputy Executive Officer of Investment Institutions and Deputy Chairperson of the Directorate; and



- 1.2. Comair Limited ("Comair") represented by MrDerek Borer in his capacity as company secretary of Comair.
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2. Contravention of section 81 of the Financial Markets Act, 19 of 2012(the "FMA")

- 2.1. On 5 November 2013 at 9:35 am and 10:19amrespectively Comair published false and/or misleading statements (the "announcements") on the Stock Exchange News Service (SENS)of the JSE Limited in respect of certain dealings in Comair shares conducted by two of its directors.
- 2.2. At 9:35 am, Comair mistakenly and unintentionally announced that MrRS Ntuli, a non-executive director of Comair, "purchased" 5 772 615 Comair shares at 300 cents per share (cps). At 10:19 am Comair mistakenly and unintentionally announced that MrAK Gupta, also a non- executive director of Comair, "purchased" 22 794 439 Comair shares at 300cps. Both the aforesaid announcements were incorrect because both Mr Ntuli and Mr Gupta had "sold" their Comair shares respectively.
- 2.3. In the circumstances, Comair admits that the publishing of the aforesaid announcements, although unintentional, were false and/or misleading and that it contravened section 81 of the FMA.

3. The mitigating circumstances

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



3.1.1. The publishing of the incorrect announcements was due to a ~~honest and bona fide~~ mistake which was in no way intended to be false, misleading or deceptive to shareholders or the market and was merely an oversight.

3.1.2. In compliance with section 81(2) of the FMA, Comair released a correction announcement at 15:18 on 5 November 2013 in order to ensure that the correct information was released to the market as soon as Comair became aware of the oversight.

3.1.3. Comair fully cooperated during the investigation and enforcement process and displayed sincere remorse and a sincere intention to comply with FSB administered legislation.

3.1.4. Comair has a long track record of observing high standards of care in disseminating information to its shareholders and the market and has, since its listing in 1998, never been found to have failed to comply with FSB administered legislation.

4. The agreed penalty

4.1. In terms of section 6B(7)(a) of the Financial Institutions (Protection of Funds) Act, No 28 of 2001, the parties agreed that Comair will pay a penalty of R70 000 (seventy thousand rand) in settlement of the matter. Moreover, Comair agreed to pay the costs of the investigation and enforcement action which amount



to R30 000. The aforesaid amounts are due and payable on or before 30 June 2014.

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, No 28 of 2001, on the terms set out above (the "Settlement Order").

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 the Respondent does not comply with the terms of this agreement and it is necessary for the Financial Services Board ("FSB") to proceed with legal proceedings, the Respondent herewith consents to pay all legal costs 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 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;

Any receipt of a payment by the FSB after the due date shall be without prejudice to any of the rights of the FSB;



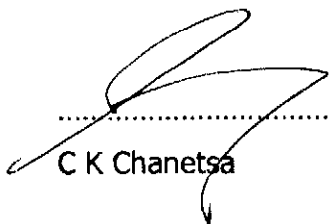
5.4. This agreement constitutes the whole agreement between the parties in respect of the offer to pay the penalty and costs.

5.5. The parties elect the addresses below as their *domicilium citandi et executandi* for the purposes of service of the Enforcement Committee order and any Notice or pleadings related to the breach of this agreement:

5.5.1. The Financial Services Board
Block B, Riverwalk Office Park
No. 41 Matroosberg Road
Ashlea Gardens
Pretoria

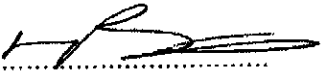
5.5.2. Comair Limited
1 Marignane Drive
Bonaero Park
Kempton Park
1619

Signed at PRETORIA on 28 MAY 2014 on behalf of the Directorate of Market Abuse.


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C K Chanetsa



Signed at Kempton Park on 27 May 2014 on behalf of Comair
Limited.


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D Borer

