

**IN THE PROCEEDINGS BEFORE THE ENFORCEMENT COMMITTEE
ESTABLISHED IN TERMS OF SECTION 10(1), READ WITH 10A OF
THE FINANCIAL SERVICES BOARD ACT, NO 97 OF 1990**

CASE NO: **01/2013**

In the matter of:

THE DIRECTORATE OF MARKET ABUSE

First Applicant

FINANCIAL SERVICES BOARD

Second Applicant

and

HANDELSMAN, KEVIN GUY

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 73 of the Securities Services Act, No 36 of 2004, and impose a penalty of R68 460. The remaining terms and conditions of the settlement agreement are incorporated and made an order of the Enforcement Committee.

Signed at **PRETORIA** on the 22 day of **January 2013**



C F Eloff

Chairperson of the Enforcement Committee

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In the matter of:

DIRECTORATE OF MARKET ABUSE

FIRST APPLICANT

FINANCIAL SERVICES BOARD

SECOND APPLICANT

and

KEVIN GUY HANDELSMAN

RESPONDENT

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

WHEREAS the Directorate of Market Abuse (DMA) investigated ("the investigation") certain share transactions by the Respondent in Dimension Data Holdings Plc ("Dimension Data") in terms of section 82(2)(a) of the Securities Services Act No 36 of 2004 (SSA);

AND WHEREAS the DMA resolved to refer the matter to the Enforcement Committee of the Financial Services Board (FSB) in terms of section 6A(2) of the Financial Institutions (Protection of Funds) Act, No 28 of 2001 (FI Act);

AND WHEREAS the Respondent wishes for the matter to be dealt with by way of an agreed penalty.



NOW THEREFORE the parties agree as follows:

1. The parties to the agreement

- 1.1. The First Applicant is the DMA, a committee of the FSB established in terms of section 83(1) of the Securities Services Act, No 36 of 2004 (the SSA). The DMA exercises the powers of the FSB to investigate any matter relating to a market abuse offence.
- 1.2. 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.
- 1.3. The First and Second Applicant are herein represented by Cuthbert King Chanetsa, the Deputy Executive Officer of Investment Institutions of the FSB, and the Acting Chairperson of the DMA.
- 1.4. The Respondent is Kevin Handelsman, an adult male chartered accountant who at all times relevant to this referral was employed in the Corporate Finance Division at Dimension Data.
- 1.5. During 2010 the Respondent was also responsible for Investor Relations in South Africa.

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2. Background facts

2.1. The Respondent traded on the account of his father, Leslie Handelsman because he felt "uncomfortable" in trading on his own account, being an employee of Dimension Data for the reasons detailed below.

2.2. The Respondent's trades are detailed in the table ("the table") below:

Date	Quantity	Price	Transaction Amount
08 July 2010	2 000	1080	21 600.00
12 July 2010	3 000	1100	33 000.00
13 July 2010	7 665	1124	86 154.60
13 July 2010	335	1124	3 765.40
15 July 2010	-13 000	1375	178 750

2.3. The Respondent was the beneficial owner of the shares and not his father.

3. The applicants, during the course of their investigation, established that:

3.1. on 10 June 2010 (NTT) Nippon Telegraph and Telephone Corporation furnished Dimension Data with a proposal to acquire all of the issued shares in Dimension Data. The Respondent was not, however, aware of this fact;

- 3.2. on 15 July 2010 Dimension Data published an announcement on SENS (Securities Exchange News Service). The announcement included details of an offer by NTT to acquire all of Dimension Data's shares at a price of 120 pence per share in cash.
4. The Respondent possessed the following knowledge at the time of taking a decision to trade the shares detailed in 2.2 above:
- 4.1. He assumed that a due diligence process was ongoing because his boss, (Mr. Quarmby)Patrick Quarmby, head of Corporate Finance at Dimension Data, asked him to provide the Capital Gains Tax and base costs for valuations of the Dimension Data Group. He deduced from the request that there was a prospect of certain companies constituting approximately 60% of Dimension Data being sold.
- 4.2. There was a "buzz" in the office because he saw the company advisors, JP Morgan Cazenove visiting the office of Mr. Quarmby. He was also asked to excuse himself from meetings with major shareholders which he would ordinarily attend.
- 4.3. He knew Mr Quarmby was busy with a "material transaction" judging from the activity at his office.
- 4.4. On or about 7 July 2010, the respondent had sight of notes on a conference call which took place on 01 July 2010 between Ernest and Young United Kingdom, Japan, South Africa and the Chief Financial Officer and Tax Manager of Dimension Data. The note



described that the purpose of the call was “to focus on the key tax questions that could potentially have an impact on the transaction value.”

4.5. On or about 7 July 2010 he became aware that the counterparty to the transaction is NTT and that the said transaction is at an advanced stage.

5. The Contraventions

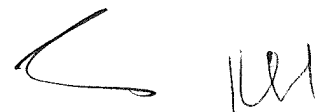
5.1. The information mentioned in paragraph 4 was not available to the public and was of such a nature that if it were to be made public, it may have had a material effect on the Dimension Data share price. The aforesaid information thus qualified as inside information as described in section 72 of the SSA.

5.2. Whilst possessing the aforesaid information, the Respondent admits to the share transactions detailed in 2.2 above at the prices listed in the table.

5.3. The Respondent admits that in the circumstances detailed in 4 above, he contravened Section 73 of the SSA.

6. Mitigating Circumstances

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

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- 6.1. when concluding these transactions the Respondent was not aware that he was breaching the insider trading provisions contained in the SSA. The Respondent acknowledges that he should have known that trading whilst having inside information is in contravention of Section 73 of the SSA;
- 6.2. the Respondent has never appeared before the Enforcement Committee and never been found to have breached any provisions of the SSA before;
- 6.3. the contravention occurred over a short period of time and involved a small amount of shares having regards to the hundreds of thousands of shares that were traded during this period;
- 6.4. the investigation has caused the Respondent considerable strain, especially because of the implications on his career and employment environment;
- 6.5. the Respondent is prepared to accept the decision of the FSB and has not wasted the Enforcement Committees resources on a prolonged contested case; and
- 6.6. the Respondent has repeatedly expressed remorse and embarrassment for having contravened the SSA.



7. The Agreed Penalties

- 7.1. The Respondent hereby tenders to pay a penalty of R68 460 (sixty eight thousand four hundred and sixty rand) which aggregates to the profits on the trades detailed in the table, plus a penalty thereon. The Applicants have accepted the penalty offered by the Respondent.
- 7.2. Wherefore the parties humbly request that the Honourable Enforcement Committee make the agreement an order as envisaged in section 6B (7) (b) of the Financial Institutions (Protection of Funds) Act 28 of 2001.

8. Other Conditions

- 8.1. 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.
- 8.2. If the Respondent does not comply with the terms of this agreement and it becomes necessary for the DMA to proceed with legal proceedings, the Respondent herewith consents to pay all legal costs to the DMA on the Attorney and Client scale in

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terms of the High Court Rules inclusive of collection commission and Value Added Tax.

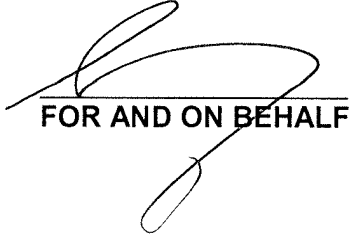
- 8.3. No leniency or postponement given by the DMA or the FSB to the Respondent or any amendment to the terms and conditions of this agreement will be binding unless such postponement, leniency or amendment is reduced to writing and signed by the parties.
- 8.4. Any receipt of a payment by the FSB after the due date shall be without prejudice to any of the rights of the DMA or the FSB.
- 8.5. The agreement constitutes the whole agreement between the parties in respect of the offer to pay an administrative penalty.
- 8.6. 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:

8.6.1. Applicants : The Directorate of Market Abuse
c/o The Financial Services Board
Block B, Riverwalk Office Park
41 Matroosberg Road
Ashlea Gardens
Pretoria
Ref: M Davids/DDT

8.6.2. Respondent: Mr K G Handelsman
c/o Werksmans
155 5th Street
Sandown, Sandton
Ref: Mr D Hertz/HAND21518.1

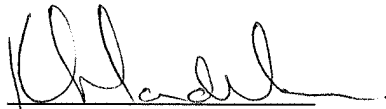
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SIGNED AT Pretoria on the 21 day of January 2012³



FOR AND ON BEHALF OF THE REFERRING PARTY

SIGNED AT Johannesburg on the 13th day of SEPTEMBER 2012.



KEVIN HANDELSMAN

KH.