

**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: 15/2014

In the matter of:

**DIRECTORATE OF MARKET ABUSE**

FIRST APPLICANT

**FINANCIAL SERVICES BOARD**

SECOND APPLICANT

and

**THEBA, YASEEN A**

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 73(1)(a) of the Securities Services Act, No 36 of 2004, and impose a penalty of R60 000 inclusive of costs. The remaining terms and conditions of the settlement agreement are incorporated and made an order of the Enforcement Committee.

Signed at **PRETORIA** on the 4<sup>TH</sup> day of **SEPTEMBER 2014**.

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

~  
"Aussage A"

**IN THE PROCEEDINGS BEFORE THE ENFORCEMENT COMMITTEE  
ESTABLISHED IN TERMS OF SECTION 10(13), READ WITH 10A OF  
THE FINANCIAL SERVICES BOARD ACT, NO 97 OF 1990**

CASE NO: 15/2014

In the matter of:

|                                    |                         |
|------------------------------------|-------------------------|
| <b>DIRECTORATE OF MARKET ABUSE</b> | <b>FIRST APPLICANT</b>  |
| <b>FINANCIAL SERVICES BOARD</b>    | <b>SECOND APPLICANT</b> |
| <b>and</b>                         |                         |
| <b>YASEEN A THEBA</b>              | <b>RESPONDENT</b>       |

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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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**WHEREAS** the Directorate of Market Abuse (DMA) investigated ("the investigation") certain share transactions by the Respondent in Labat Africa Limited ("Labat") in terms of section 82(2)(a) of the Securities Services Act No 36 of 2004 (SSA);

**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

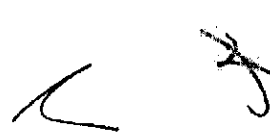


the FSB to investigate any matter relating to a market abuse offence.

- 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 Yaseen A Theba, an adult male businessman residing at 28 The Royal Houghton, Houghton, Gauteng.

## 2. Background facts

- 2.1. The Respondent opened a share trading account with First National Bank on 27 January 2010 and deposited an amount of R30 000 into the account.
- 2.2. On the same day, the Respondent purchased 268 265 Labat shares at a price of 10cps.

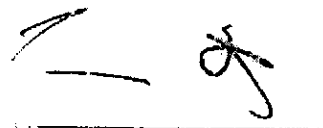


- 2.3. On 1 February 2010 it was announced to the public that Aurora Empowerment Systems (Pty) Ltd will obtain a controlling stake in Labat.
- 2.4. After the announcement, and on the same day, Respondent sold all the Labat shares that he had bought at a profit of 9cps.
- 2.5. The Respondent's trades are detailed in the table ("the table") below:

| Date             | Quantity | Price (C) | Transaction Amount (R) |
|------------------|----------|-----------|------------------------|
| 27 January 2010  | 268 265  | 10        | 26 827                 |
| 01 February 2010 | 268 265  | 19        | 50 970                 |
| Profit           |          |           | 24 143                 |

### 3. The Contraventions

- 3.1. Prior to 26 January 2010 the Respondent came into possession of information regarding a possible transaction in terms of which Aurora Empowerment Systems (Pty) Ltd would obtain a controlling stake in Labat. The information was overheard from insiders involved in the transaction, was not available to the public and was of such a nature that if it were to be made public, it was likely to have had a material effect on the Labat share price. The aforesaid information thus qualified as inside information as described in section 72 of the SSA.
- 3.2. Whilst possessing the aforesaid information, the Respondent dealt in the Labat share as detailed in paragraph 2 above.

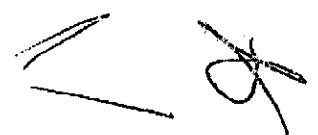


3.3. The Respondent admits that in the circumstances as detailed above, he foresaw the possibility that he would be dealing in Labat shares whilst in possession of inside information, but reconciled himself with the consequences, and nevertheless dealt in Labat shares and thereby contravened Section 73(1)(a) of the SSA.

#### 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 has cooperated with the investigators and has come forward out of his own accord, thereby saving resources and time of the Enforcement Committee;
- 4.2. The Respondent has never appeared before the Enforcement Committee and has never been found to have breached any provisions of the SSA before;
- 4.3. The contravention resulted from a single transaction and involved a relatively small number of shares and profit of only R24 143.00;
- 4.4. The Respondent has expressed remorse for having contravened the SSA.

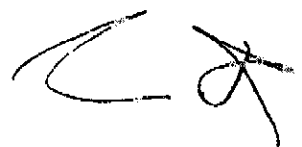


**5. The Agreed Penalties**

- 5.1. The Respondent hereby tenders to pay a penalty of R60 000 (Sixty thousand rand) which consists of the profit made on the transactions in the table above and a penalty for punitive and compensatory purposes.
- 5.2. The Applicants have accepted the amount offered by the Respondent subject to approval of 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 Financial Institutions (Protection of Funds) Act 28 of 2001.

**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. 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.
- 6.4. The agreement constitutes the whole agreement between the parties in respect of the offer to pay an administrative penalty.
- 6.5. 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:

6.5.1. The Directorate of Market Abuse  
c/o The Financial Services Board  
Block B, Riverwalk Office Park  
41 Matroosberg Road  
Ashlea Gardens  
Pretoria

6.5.2. The Respondent  
c/o SZA Attorneys  
97 Central Street  
Houghton  
Johannesburg  
By email: shaie@legalprop.co.za



Signed at Pretoria on this the 1<sup>st</sup> day of ~~August~~<sup>September</sup> 2014.



**FOR AND ON BEHALF  
OF THE REFERRING PARTY**

Signed at Johannesburg on this the 2<sup>nd</sup> day of ~~August~~<sup>September</sup> 2014.

  
**YASEEN THESA**