

**IN THE PROCEEDINGS BEFORE THE ENFORCEMENT COMMITTEE
OF THE FINANCIAL SERVICES BOARD**

CASE NO: **18/2013**

In the matter of:

THE DIRECTORATE OF MARKET ABUSE

First Applicant

FINANCIAL SERVICES BOARD

Second Applicant

and

WESIZWE PLATINUM LIMITED

(Registration number: 2003/020161/06)

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 76 of the Securities Services Act, No 36 of 2004, and impose a penalty of R65 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 ..²⁶... day of **November 2013**.



C F Eloff

Chairperson of the Enforcement Committee

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

CASE NO: **18/2013**

In the matter of:

**THE FINANCIAL SERVICES BOARD
DIRECTORATE OF MARKET ABUSE**

First Applicant
Second Applicant

and

**WESIZWE PLATINUM LIMITED
(Registration number: 2003/020161/06)**

Respondent

**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}~~Acting~~ Chairperson of the Directorate; and



1.2. Wesizwe Platinum Limited (Wesizwe) represented by Mr Jianke Gao in his capacity as the Chief Executive Officer of Wesizwe.

2. Contravention of section 76 of the Securities Services Act, 36 of 2004 (the SSA)

2.1. It is agreed between the parties that on 7 March 2013 at 13:45 Wesizwe published a false and/or misleading statement (the announcement) on the Stock Exchange News Service to the effect that its basic earnings per share (EPS) for the period ended 31 December 2012 was expected to be between 58 cents per share (cps) and 63 cps and its headline earnings per share (HEPS) would be between 68 cps and 73 cps.

2.2. The aforesaid announcement was incorrect and was published in circumstances where Wesizwe ought to reasonably have known that the figures for EPS were expected to be between 0.58 cps and 0.63 cps and for HEPS they were expected to be between 0.68 and 0.73 cps.

2.3. In the circumstances Wesizwe admits that it contravened section 76 of the SSA.

3. The mitigating circumstances

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

3.1.1. The incorrect announcement was clearly due to a *bona fide* typographical error where the announcement omitted

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to insert the figure "0" before the respective EPS and HEPS.

- 3.1.2. Wesizwe took immediate steps to rectify the error by notifying the JSE of the error and this resulted in trading in Wesizwe shares being halted at 14:30 on 7 March. In essence, the incorrect information was in the market for 45 minutes.
- 3.1.3. A correction was published by Wesizwe at 15:50 on the same day thus ensuring that the correct information was released to the market as soon as possible.
- 3.1.4. Wesizwe fully cooperated during the investigation and enforcement process and displayed sincere remorse and a sincere intention to comply with FSB administered legislation.
- 3.1.5. Wesizwe has 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 the Respondent will pay a penalty of R65 000 (sixty five thousand rand) in settlement of the matter.
- 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.



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;
- 5.4. Any receipt of a payment by the FSB after the due date shall be without prejudice to any of the rights of the FSB;
- 5.5. This Agreement shall not be a novation of the cause of action in terms whereof the Respondent was found to have contravened the Act; and
- 5.6. This agreement constitutes the whole agreement between the parties in respect of the offer to pay a penalty.

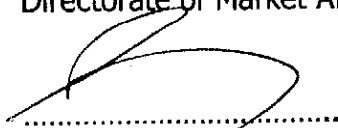


5.7. The parties select the addresses below as their *domicilium citandi et executandi* for the purposes of service of the Enforcement Committee order and for any notice or pleading related to a breach of this agreement:

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

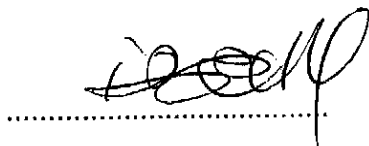
5.7.2. Wesizwe Platinum Limited
Unit 13, 2nd Floor, 3 Melrose Boulevard
Melrose Arch
2076

Signed at PRETORIA on 25 November on behalf of the Directorate of Market Abuse.



C K Chanetsa

Signed at Melrose Arch on 22 November 2013 on behalf of Wesizwe Platinum Limited.



Mr J Gao