

**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: **21/2014**

In the matter of:

**THE DIRECTORATE OF MARKET ABUSE**

First Applicant

**FINANCIAL SERVICES BOARD**

Second Applicant

and

**CHARLES EDWARD ERROL FORSDICK**

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)(a) of the Financial Markets Act, No 19 of 2012, and impose a penalty of R50 000 (inclusive of investigation 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 .....<sup>12<sup>th</sup></sup> day of **DECEMBER 2014**.



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

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

**CASE NO: 21/2014**

In the matter of:

**DIRECTORATE OF MARKET ABUSE** **FIRST APPLICANT**

**FINANCIAL SERVICES BOARD** **SECOND APPLICANT**

and

**CHARLES EDWARD ERROL FORSDICK** **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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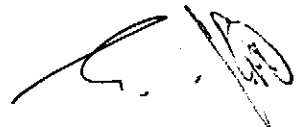
**WHEREAS** the Directorate of Market Abuse (DMA) investigated certain share transactions by the Respondent in Cullinan Holdings Limited 5.5% cumulative preference shares (CULP) in terms of section 84(2)(a) of the Financial Markets Act, Act 19 of 2012 (FMA);

**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 Financial Services Board (FSB) established in terms of section 85 of the

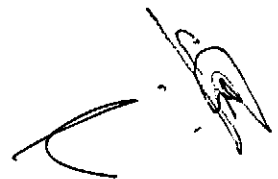


FMA. The DMA exercises the powers of the FSB to investigate any matter relating to a market abuse offence.

- 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 Charles Edward Errol Forsdick, an adult male residing at 652 Stephan Dlamini Road, Berea, Durban.

## **2. Background facts**

- 2.1. CULP shares are listed on the JSE Limited, which exchange is a regulated market.
- 2.2. The Respondent was at all relevant times authorised to give instructions on various share trading accounts held with Sanlam Private Wealth Ltd.

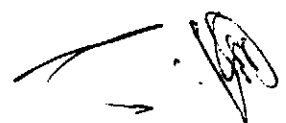
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### 3. The Contravention

- 3.1. On 3 September 2014, the Respondent placed an offer to sell 100 CULP shares at 200cps from the CEE Forsdick account. He thereafter placed an order to buy 100 CULP shares at a price of 200cps on the Charles Forsdick Enterprises CC account.
- 3.2. The aforementioned bid and offer matched, which resulted in the CULP share price increasing from a price of 57cps, to a price of 200cps.
- 3.3. The transaction did not involve a change of beneficial ownership.
- 3.4. The abovementioned orders were placed for the purpose of moving the CULP share price from a price of 57cps, at which price it was trading at the time, to a price of 200cps.
- 3.5. The transaction caused a false or deceptive appearance of trading activity in connection to the CULP share and created an artificial price for the CULP share.
- 3.6. In the circumstances as detailed above, the Respondent admits that he contravened Section 80(1)(a) of the FMA.

### 4. Mitigating Circumstances

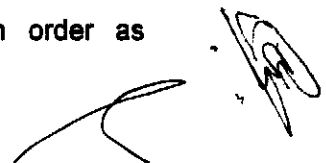
The parties record that the following constitute mitigating circumstances which have been taken into consideration in this matter:



- 4.1. The Respondent has fully co-operated with the investigators and during the enforcement process, thereby saving resources and time of both the DMA and 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 FMA before;
- 4.3. The contravention resulted from a single transaction;
- 4.4. The contravention did not prejudice any third parties as it was cancelled shortly after taking place, and before any other transactions could take place;
- 4.5. The Respondent has accepted responsibility for his actions and has shown deep remorse for having contravened the FMA.

## **5. The Agreed Penalties**

- 5.1. The Respondent hereby tenders to pay a penalty of R50 000 (Fifty thousand rand) inclusive of investigation costs.
- 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

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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. 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

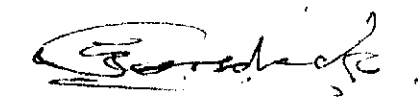
6.4.2. The Respondent  
652 Stephan Dlamini Road  
Berea  
Durban  
By email: info@charlesfordsdick.co.za

Signed at Pretoria on this the 11<sup>th</sup> day of December 2014.



FOR AND ON BEHALF  
OF THE REFERRING PARTY

Signed at Durban on this the 5<sup>th</sup> day of December 2014.



CEE FORSDICK

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Respondent

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**NOTICE IN TERMS OF SECTION 6E(1) OF THE FINANCIAL  
INSTITUTIONS (PROTECTION OF FUNDS) ACT, NO 28 OF 2001**

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PLEASE TAKE NOTICE THAT the Enforcement Committee, on  
...12.... December 2014 imposed a penalty of R50 000 on the  
Respondent. A copy of the order is attached herewith.

PLEASE TAKE FURTHER NOTICE that the determination and the imposition  
of the penalty may be taken on appeal to the High Court of South Africa,  
in terms of section 6F(1) of the Act (Financial Institutions (Protection of  
Funds) Act, No 28 of 2001), as if the determination was a decision of a  
magistrate in a civil matter.



PLEASE TAKE FURTHER NOTICE that failure to comply with this notice will result in the provisions of section 6E(2) of the Act being invoked, that reads as follows:

*"A determination by the enforcement committee has legal force as if made by the High Court and if the respondent fails to comply with the notice in terms of subsection (1)(b) and an appeal has not been noted, the applicant may forthwith file with the registrar of a competent court a certified copy of the notice and the determination, and the determination thereupon has the effect of a civil judgment and may be enforced as if lawfully given in that court in favour of the applicant."*

Signed at **PRETORIA** on the ....12.... day of **DECEMBER 2014**.



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

To: Charles Edward Errol Forsdick  
652 Stephan Dlamini Road  
Berea  
**Durban**  
2072

[info@charlesfordsdick.co.za](mailto:info@charlesfordsdick.co.za)