

FSCA Press Release

27 March 2020

FSCA fines Connie van Nieuwkerk two administrative penalties

The Financial Sector Conduct Authority (FSCA) has ordered administrative penalties against Ms Connie van Nieuwkerk for breaches of Section 76 of the Securities Services Act (SSA) during her time as director and Chief Financial Officer of both African Dawn Limited (African Dawn) and Alliance Mining Corporation Limited (Alliance Mining). The two orders are for R31 million and R15 million respectively.

In 2009, the FSCA instituted two separate investigations for suspected breaches of the SSA by two companies that were at the time JSE listed companies – African Dawn and Alliance Mining. The financial performance of these companies for the 2008 and 2009 financial years were the subject of the investigations. As the CFO and a director at both these companies, Ms van Nieuwkerk was directly responsible for the preparation of the annual financial results as well as their publication for the periods. The FSCA's found, amongst other breaches, the following in its investigations:

1. African Dawn

- African Dawn published financial statements containing information which was false and misleading or deceptive, which Ms van Nieuwkerk knew was false, misleading or deceptive.
- The total amount of her misrepresentations was R274 million.

2. Alliance Mining

- Alliance Mining published financial statements containing information which was false and misleading or deceptive, which Ms van Nieuwkerk knew was false, misleading or deceptive.
- Ms van Nieuwkerk adjusted actual figures to inflate Alliance Mining's profit for the 2008 financial year by R139 million.
- Ms van Nieuwkerk adjusted actual figures to inflate Alliance Mining's profit for the 2009 financial year by R290 million.

Upon completion of both investigations, Ms Van Nieuwkerk was provided ample opportunities to make submissions on the findings and intended administrative penalty.

Transitional Management Committee:

AM Sithole (Commissioner) DP Tshidi CD da Silva JA Boyd MM du Toit LP Kekana K Gibson OB Makhubela P Mogase

After applying for extensions in both instances, Ms Van Nieuwkerk chose to not provide any further submissions or mitigating factors.

Having looked at the seriousness of the misconduct as well as due considerations of both the factors in each case and the provisions in the Financial Sector Regulation Act (FSR Act), the FSCA imposes an administrative penalty of R31 million (African Dawn) and R15 million (Alliance Mining).

For a copy of each order, please visit <https://www.fsca.co.za/Enforcement-Matters/Pages/Enforcement-Actions.aspx>.

Members of the public should always check that an entity or individual is registered with the FSCA to provide Financial Advisory & Intermediary Services and what category of advice it is that the entity is registered to provide. There are instances where persons are registered to provide basic advisory services for a low risk product and then offer services of a far more complex and risky nature. The FSCA again reminds consumers who wish to conduct financial services with an institution or person to check beforehand with the FSCA on either the toll free number (0800 110 443) or on the website www.fsca.co.za as to whether or not such institution or person is authorised to render financial services.

ENDS

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