

**IN THE NATIONAL CONSUMER TRIBUNAL
HELD IN CENTURION**

Case number: **NCT/7751/2013/57(1)**

In the matter between:

NATIONAL CREDIT REGULATOR

APPLICANT

and

CREDIT CARE (PTY) LTD

RESPONDENT

Coram:

Prof J Maseko – Presiding member

Mr X May – Member

Ms P Beck – Member

Date of Hearing – 1 August 2013

JUDGMENT AND REASONS

APPLICANT

1. The Applicant in this matter is the National Credit Regulator, a body established in terms of Section 12 of the National Credit Act (the “NCA” or the “Act”) (hereinafter referred to as “the Applicant”).
2. The Applicant’s Founding Affidavit is deposed to by Advocate Zwelithini Ronald Zakwe, employed at the time of deposing to the affidavit, as manager of the Investigations and Enforcement Department of the Applicant.

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RESPONDENT

4. The Respondent is Credit Care (Pty) Ltd, a registered credit provider, since 26 June 2007, with Registration Number NCRCP 2884 and with principal place of business in Orkney (hereinafter referred to as "the Respondent").
5. The Respondent's Answering Affidavit was deposed to by Geraldine Janse Van Rensburg, the sole director of the Respondent.
6. At the hearing of 1 August 2013, the Respondent was represented by Mr J.A. Van Aswegen of Theron Jordaan & Smith Attorneys of Klerksdorp. He was accompanied by Ms. Geraldine Janse Van Rensburg, the current sole director of the Respondent.

JURISDICTION OF THE TRIBUNAL

7. This Tribunal derives the jurisdiction to hear this matter, from section 57(1) of the National Credit Act, 34 of 2005 ("the Act" or "the NCA"). This is an application in terms of Section 57(1) of the NCA for the cancellation of the Respondent's registration in terms of the Act. The Applicant stated the reason for this application to be the alleged repeated failure of Respondent to comply with its conditions of registration. The Applicant also alleged that the Respondent had repeatedly contravened the Act.

BACKGROUND

8. The Respondent has been registered with the Applicant as a credit provider, with effect from 26 June 2007, and operates from three branches which are situated at Kanana, Klerksdorp and Orkney. A copy of the Respondent's registration certificates are annexed to the founding affidavit and marked as Annexures "A1-A2" (at page 36 of case File).
9. The aforesaid registration was subject to certain general and specific conditions of registration and subsequently also subject to a compliance notice that was issued in January 2008. The Respondent had failed to comply with its general and specific conditions of registration and further failed to comply with the compliance notice issued by the Applicant.

- 10.** The Respondent is alleged to have conducted itself in a manner that contravened the Act, the Regulations and the Respondent's conditions of registration. The specific violations alleged against the Respondent included:
- 10.1** Inducing consumers to sign supplementary agreements that contained unlawful provisions when included in the credit agreements. This was said to be in direct violation of Section 91(a) of the Act.
 - 10.2** Requiring consumers to sign credit agreements with unlawful provisions depriving the consumers certain rights enshrined in Act. This was said to be in direct contravention of Section 90(2)(b)(i) and (ii) of the Act.
 - 10.3** Splitting the loans and thereby charging fees in excess of the prescribed rates. This was said to be in direct contravention of Sections 101(1)(d)(i) and (ii), 102 and 105 read with Regulation 42(1) and 44 of the Act.
 - 10.4** Charging consumers Nu-Pay fees included in the cost of credit as prohibited by Section 101(1) of the Act. This was said to be in direct contravention of Section 100(1) (d) of the Act.
 - 10.5** Granting credit to consumers under administration. In this way it allegedly contravened Section 89(2)(a)(ii) of the Act.
 - 10.6** Failing to furnish the consumers with pre-agreement statements and quotations, or alternatively failing to retain such documents in the consumer files. This alleged conduct contravened Sections 92(1) and 92(3)(a) read together with Regulation 28(2) of the Act and alternatively Regulation 55(1)(b)(iv) read with the Respondent's conditions of registration.
 - 10.7** Failing to comply with all the applicable legislation relating to the operation of the business of a credit provider. This was in itself supposedly in contravention of the Respondent's general conditions of registration A1 (page 32 of case file).
- 11.** In light of the alleged repeated failures to comply with the Act, the Regulations and the Respondent's conditions of registration, the Applicant prayed for the Tribunal to make an order:

- 11.1** Cancelling the Respondent's registration as a Credit Provider;

- 11.2 Declaring the Respondent's conduct to be prohibited in terms of the Act;
- 11.3 Imposing an administrative fine, not exceeding the greater of 10% of the annual turnover of the respondent's preceding financial year or an amount of R 1 000 000.00, on the Respondent; and
- 11.4 Of any other kind, that would be appropriate, in terms of Section 150(i) of the Act, to give effect to the consumers' rights in terms of the Act.

THE LAW ON THE MATTER

12. The law applicable in this case includes:

- 12.1 The provisions of Section 57(1) of the NCA which state, subject to subsection (2), that registration in terms of this Act may be cancelled by the Tribunal on request by the National Credit Regulator, if the registrant repeatedly –
 - (a) Fails to comply with any condition of its registration ;
 - (b) Fails to meet a commitment contemplated in section 48(1); or
 - (c) Contravenes the Act.
- 12.2 The provisions of Section 89(2) of the Act, which state, subject to subsections (3) and (4), that a credit agreement is unlawful if- at the time the agreement was made, the consumer was an unemancipated minor unassisted by a guardian, or was subject to- ... an administration order referred to in section 74(1) of the Magistrates' Courts Act, and the administrator concerned did not consent to the agreement (paragraph (b)).
- 12.3 Section 90(2)(b)(i) and (ii) of the Act prohibits the inclusion of unlawful provisions in a credit agreement, which would directly or indirectly purport to –
 - 12.3.1 waive or deprive a consumer of a right set out in this Act; and
 - 12.3.2 avoid a credit provider's obligation or duty in terms of this Act.
- 12.4 Section 91(a) of the Act prohibits a credit provider from directly or indirectly requiring or inducing a consumer to enter into a supplementary agreement, or sign any document, that contains a provision that would be unlawful if it were included in a credit agreement.

agreement with a consumer, unless the credit provider has given the consumer a pre-agreement statement and quotation in the prescribed form. In terms of subsection (3), subject only to subsection (4)(a), sections 81 and 101(l)(d)(ii), for a period of five business days after the

date on which a quotation is presented in terms of subsection (2)(b), with respect to a small agreement, the credit provider must, at the request of the consumer, enter into the contemplated credit agreement at or below the interest rate or credit cost quoted, subject only to sections 81 and 101(1)(d)(ii).

12.6 Section 100(1)(d) of the Act, prohibits a credit provider from charging an amount to or imposing a monetary liability on the consumer in respect of any fee, charge, commission, expense, or other amount payable by the credit provider to any third party in respect of a credit agreement, except as contemplated in section 102 or elsewhere in the Act.

12.7 In terms of Section 101(1)(d) a credit agreement must not require payment by the consumer of any money or other consideration, except interest, which-

(i) Must be expressed in percentage terms as an annual rate calculated in the prescribed manner; and

(ii) Must not exceed the applicable maximum prescribed rate determined in terms of section 105.

12.8 Section 102(1) lists items that a credit provider is permitted to include in the principal debt deferred under the agreement if a credit agreement is an instalment agreement, a mortgage agreement, a secured loan or a lease. These items include:

(a) an initiation fee as contemplated in section 101(1)(6), if the consumer has been offered and declined the option of paying that fee separately;

(b) the cost of an extended warranty agreement;

(c) delivery, installation and initial fuelling charges;

(d) connection fees, levies or charges;

(e) taxes, licence or registration fees; or

(f) subject to section 106, the premiums of any credit insurance payable in respect of that credit agreement.

12.9 Section 102(2) prohibits a credit provider from:

(a) Charging an amount in terms of subsection (1) unless the consumer chooses to have the credit provider act as the consumer's agent in arranging for the service concerned;

- (b) requiring the consumer to appoint the credit provider as the consumer's agent for the purpose of arranging any service mentioned in subsection (1); or
 - (c) charging the consumer an amount under subsection (1) in excess of-
 - (i) the actual amount payable by the credit provider for the service, as determined after taking into account any discount or other rebate or other applicable allowance received or receivable by the credit provider; or
 - (ii) The fair market value of a service contemplated in subsection (1), if the credit provider delivers that service directly without paying a charge to a third party.
- 12.10** Section 102(3) provides that if the actual amount paid by a credit provider to another person is not ascertainable when the consumer pays an amount to the credit provider for a fee or charge contemplated in subsection (1) and if, when it is ascertained, it is less than the amount paid by the consumer, the credit provider must refund or credit the difference to the consumer.
- 12.11** Section 105(3)(a) empowers the Minister for the Department of Trade and Industry (DTI), to establish different maximums for credit agreements within each subsector of the consumer credit market. And in so doing, (b) may prescribe the method, consistent with section 101(3), for allocating service fees between the provision of credit and the provision of related financial services, in circumstances in which a credit provider offers multiple financial services under a single agreement.
- 12.12** As subordinate legislation, Regulation 28(2) of the Act provides that if any section of the pre-agreement statement and quotation as prescribed in this section does not apply to the particular type of credit agreement, such section may be omitted from the statement.
- 12.13** Regulation 42(2) provides the maximum initiation fees allowed with respect to the various types of credit agreements.
- 12.14** Regulation 44, on the other hand, provides the maximum amounts of monthly service fees for the various types of credit agreements.

12.15 is a condition of registration for credit providers (General Condition 71), that:

"The registrant must comply with all applicable legislation relating to the operation of the business of a credit provider, including but not limited to the

Act, the regulations and any subsequent amendment or substitution of the applicable legislation and regulations”

ISSUES TO BE DECIDED

14. In the absence of any preliminary issues to be decided in this case, the Tribunal has to determine from the evidence adduced:
- 14.1 Whether or not the Applicant has made out a case for this Tribunal to declare that the Respondent **repeatedly contravened** the cited sections of the Act, Regulations and Conditions of Registration of the Respondent, namely:
- 14.1.1 Section 91(a);
 - 14.1.2 Section 90(2)(b)(i) and (ii);
 - 14.1.3 Section 101(1)(d)(i) and(ii);
 - 14.1.4 Section 102;
 - 14.1.5 Section 105 with Regulations 42(i) and 44;
 - 14.1.6 Sections 100(1)(d);
 - 14.1.7 Section 89(2)(a)(ii);
 - 14.1.8 Section 92(1)(3)(a) read with Regulation 28(2) and 55(1)(b)(vi);
 - 14.1.9 General Conditions of Registration, Part A, Clause 1;
 - 14.1.10 TThe consent order, which constitutes an offence in terms of Section 160(1) of the NCA;
- 14.2 Whether the alleged contraventions, as cited *supra*, justifies a declaration that the Respondent engaged in **prohibited conduct** in terms of Section 150(a) of the NCA;
- 14.3 Whether the alleged contraventions, as cited *supra*, justifies the **cancellation** of the Respondent's registration with the Applicant in terms of Section 150(g) read together with Section 57(1)(a) and (c) of the NCA;
- 14.4 Whether the alleged contraventions, as cited *supra*, justify the imposition of an administrative fine on the Respondent in terms of Section 151 of the Act; and
- 14.5 Whether the granting of further and/or alternative relief to give effect to the consumer's rights in terms of the Act would be necessary and what it would consist of, if so.

APPLICANT'S SUBMISSIONS

15. With regard to the alleged contravention of Section 91(a) of the Act:

15.1 The Applicant submitted that the Respondent induced the consumers to enter into supplementary agreements that would have been unlawful if included in the credit agreements, causing the credit receivers to incur additional prohibited charges and/or fees¹.

15.2 The Respondent charged consumers additional costs ranging from R20.00 (Twenty Rand) to R26.00 (Twenty Six Rand) for telephonic calls and R150.00 (One Hundred and Fifty Rand) to R200.00 (Two Hundred Rand) for travelling fees in instances where the consumers defaulted² on any payments.

15.3 The credit provider required some sixteen consumers to sign supplementary agreements and to pay additional prohibited charges of R20.00 (Twenty Rand) for telephonic costs and R150.00 (One Hundred and Fifty Rand) for travelling costs including wear and tear of the vehicle used. Evidence of all 16 consumers was found on file under Annexure C of the Investigation Report. And since these consumers are a matter of the record, their names have been omitted from this judgment.

16. With regard to the alleged Contravention of Section 90(1), 90(2)(b)(i) and (ii) of the Act:

16.1 The Applicant submitted that the Respondent required the consumers to sign unlawful credit agreements with the Respondent. The credit agreements were unlawful in that they contained a clause excluding credit receivers from applying for debt review. This clause is contained as clause 1(c) in the terms and conditions of the credit agreement and states the following:

"Should ... go under debt review /debt counselling or Administration within this period, my debts at Credit Care won't be included, and I will be liable to pay the loan amount with interest and cost in full."

16.2 The effect of this clause is that it overrides and deprives consumers of a right enshrined in Section 86 of the Act³.

¹ Applicant's founding affidavit at para 17.

² Applicant's founding affidavit at para 17.

³ Applicant's founding affidavit at paragraph 18 and paragraphs 2.3.1.2; 2.3.2.5; 2.3.3.2; 2.3.4.5; 2.3.5.2; 2.3.6.2; 2.3.7.2; 2.3.8.2; 2.3.9.2; 2.3.10.4; 2.6.5.5; 2.6.6.2; 2.6.7.2; 2.6.8.2; 2.6.9.2 and 2.6.10.5 of Annexure C (investigatory report) read together with the addendums.

17. With regard to the alleged Contravention of Sections 105, 102, 101(2), 101(1)(d)(i) and (ii), 100(1) read with Regulations 42(1) and 44 of the Act:
- 17.1 The Respondent would grant two or more consecutive loans to a consumer on the same day⁴.
- 17.2 The effect of these split loans would mean that a consumer is charged double or trice the fees that should have been charged for one loan. This is in contravention of Section 101(2) of the Act that seeks to promote a fair and accessible market.
- 17.3 The Respondent, as a further consequence, charges consumers interest in excess of the prescribed maximum rates by splitting loans in contravention of Sections 105, 102, 101(2), 101(1)(d)(i) and (ii), 100(1) read with Regulations 42(1) and 44 of the Act⁵
18. With regard to the alleged contravention of Section 100(1)(b) and 101(1)(b) and (c) read with Regulation 42(2) and 44, the Respondent charges Nupay fees⁶ in contravention of Section 100(1)(d) of the Act, a fee that is not listed as one of the costs for credit in terms of the Act.
19. With regard to the alleged contravention of Section 92(1) read with Regulation 28(1) and Regulation 55(1)(b)(iv) read with Section 170 of the Act:
- 19.1 The Applicant submitted that, the Respondent failed to furnish the consumers with pre-agreement statements and quotations;⁷ and
- 19.2 Alternatively that it failed to maintain adequate records of the pre-agreement statements and quotations.
20. With regard to the alleged contravention of Section 93(2) read with Regulation 30(1) of the Act; it is said that the credit agreement utilised by the Respondent does not comply with the requirements of the prescribed form 20.2. The reason for this assertion is that the fees and interest charged are not disclosed. It merely stipulates that default collection fees will be charged⁸.

⁴ Applicant's founding affidavit at para 19 and paragraphs 2.3.2.2; 2.3.4.2; 2.3.10.2; 2.6.5.2 and 2.6.10.2 of Annexure C (investigatory report) read together with the addendums.

⁶ Applicant's founding affidavit at para 19.4.

⁷ Applicant's founding affidavit at para 20 and para 2.3.3.1; 2.3.4.1; 2.3.5.1; 2.3.6.1; 2.3.7.1; 2.3.8.1; 2.3.9.1; 2.3.10.1; 2.6.1.1; 2.6.2.1; 2.6.3.1; 2.6.4.1; 2.6.5.2.1; 2.6.6.1; 2.6.7.1; 2.6.8.1; 2.6.9.1 and 2.6.10.1 of Annexure C (investigatory report) read together with the addendums.

⁸ Applicant's founding affidavit at para 21 and para 2.6.2.3; 2.6.3.3 and 2.6.4.3 of Annexure 'C' (Investigatory report) read together with Addendums.

21. With regard to the alleged contravention of Section 89(2)(a)(ii) of the Act; the Respondent extended credit to a consumer who was under administration⁹, in contravention of the Act.
22. With regard to the alleged contravention of General Conditions of Registration of the Respondent; the Applicant submitted that the Respondent failed to comply with General Condition A1. This was done by failing to comply with the applicable legislation relating to the operation of the business of credit provision.
23. With regard to the alleged failure to comply with a compliance notice and consent order of the Tribunal:
- 23.1 The Applicant submitted that the Respondent was issued with a compliance notice in January 2008 and a follow up investigation was then conducted in February of 2008. The investigation revealed that the Respondent was still acting in contravention of the Act. This culminated in an application for cancellation of the Respondent's registration as a credit provider. The Applicant and Respondent entered into a settlement agreement which was made an order of the Tribunal in October 2009¹⁰.
- 23.2 In terms of this order, the Respondent undertook not to act in contravention of the Act and to comply in all respects with the Act in its future business ventures as a credit provider.
- 23.3 Further investigations undertaken by the Applicant to ascertain whether the Respondent was acting in compliance with the consent order revealed that the Respondent was still acting in contravention of the Act. This shows blatant disregard for the Act and the order of the Tribunal. The Respondent's blatant disregard is to the prejudice of the consumers and the credit market.
24. With regard to the grounds for an administrative penalty in terms of Section 150(c) read with Section 151 of the Act:
- 24.1 The Applicant submitted that the Respondent has severely contravened various provisions of the Act, the Regulations and the Respondent's Condition A1 of its General Conditions of Registration. Further that the Respondent failed to comply with a Tribunal order as stipulated above.

administrative fine on the Respondent.

⁹ Applicant's founding affidavit at para 23 and Addendum 'N' of Annexure 'C' (Investigatory report).

¹⁰ Applicant's founding affidavit at para 27.

24.3 The Applicant refers to the following factors that the Tribunal must consider when determining an appropriate administrative fine:

(a) The nature, duration, gravity and extent of the contravention

The nature of the contraventions are very serious as the Respondent's conduct of disregard for the law on numerous occasions, despite being afforded an opportunity to comply, severely prejudiced the consumers who were charged fees and interest in excess of the prescribed maximum rate. From the papers extracted by the Investigator it appears that the practice had been on-going for a while before 2008.

The extent of the contraventions extends to the majority of consumers who concluded credit agreements with the Respondent. In this instance, almost all the files of the consumers which were selected and reviewed as part of the investigation show a prejudice to the consumers in this respect and consequently a violation of the Act to the detriment of the consumer credit market.

(b) Any loss or damage suffered as a result of the contravention

Consumers have suffered substantial losses as they have been prejudiced and placed out of pocket due to the unscrupulous conduct of the Respondent, which has the effect of bringing the Applicant, and the credit industry in general, into disrepute.¹¹

(c) The behaviour of the Respondent

The Respondent has shown no remorse or made no attempt to rectify its unlawful practices. No remedial action was undertaken by the Respondent, despite the compliance notice having been issued and which culminated in an application for cancellation of the Respondent's registration. The Respondent also failed to take any remedial action even after the subsequent order of the Tribunal. The Respondent shows no sign of changing its behaviour. Thus, the conduct of the Respondent exploits and deprives the consumers of their rights and further shows a lack of consideration for the well-being of the consumers and letter of the law.

¹¹ No specific amounts were provided by the Applicant.

(d) The market circumstances in which the contravention took place

The contraventions occurred in an open credit market, particularly at a time when the Act was seeking to promote a fair and accessible credit market. This was during the implementation of the Act and the Respondent was given ample opportunity to remedy the contraventions however continued to act in an unlawful manner depriving consumers of their rights.

(e) The level of profit derived from the contravention

The Applicant submitted that the Respondent derived profit through unlawful practices such as splitting loans and charging fees, which were not disclosed to the consumers. Almost all the credit agreements selected as part of the investigation revealed that consumers were charged interest, initiation and/or service fees, or a combination of all three. The level of profit however will only be ascertainable once a full audit is undertaken. The Respondent's annual returns submitted to the Applicant for the period of 1 March 2011 to 28 February 2012 indicate an annual turnover of R706 061.00 (Seven Hundred and Six Thousand and Sixty One Rand)¹² for the stipulated period.

(f) The degree to which the Respondent has co-operated with the Regulator and the Tribunal

No specific submissions are made by the Applicant on this aspect, save that the Respondent has failed to comply with the Act, the compliance notice issued and a Tribunal order.

(g) Whether the Respondent has previously been found in contravention of this Act.

The Applicant submitted that the Respondent is in repeated contravention of the Act, in light thereof that a compliance notice was issued, then an application for cancellation of the Respondent's registration was launched and an order was made by the Tribunal. The Respondent has therefore previously contravened the Act.

¹² Applicant's founding affidavit at paragraph 26.

RESPONDENT'S SUBMISSIONS

26. From the submissions made by the Respondent substantiated by the documentation attached to the answering affidavit:
- (a) The Deponent submitted that, the Respondent was previously managed by her late father, Mr Leo Janse van Rensburg, who was the sole director and shareholder of the Respondent and who passed away on 3 September 2011. Further, that she was employed by the Respondent to perform administrative functions and was not part of the management of the company at the time. But this misses the point. The entity is expected to be compliant and not the individuals who run it. It does not matter therefore who is in charge of the business at any time. It is the business that needs to be compliant.
 - (b) The Deponent stated that she coincidentally became aware of the application when she was going through her late father's e-mails. She further only became aware of the compliance notice when she was served with the application for cancellation of the Respondent's registration. The same observation covered in paragraph 26.2 above holds true here too.
 - (c) The Respondent pleaded for the registration not to be cancelled on the grounds that, when she took over as the director and shareholder, she ensured that all the procedures and requirements set out by the Applicant were adhered to. She is aware that this does not condone the former director's non-compliance with the Act. The Respondent also claims that it is now only functioning from Orkney and no longer conducts business in the Kanana and Klerksdorp areas. This does not help the case of the Respondent as the punitive measures being prayed for are designed to punish previous repeated violations and are no longer about corrective efforts.
 - (d) The Respondent admitted that investigations were done by the Applicant¹³ and that it has now adhered to all the conditions stipulated by the Applicant and as stipulated in the Act. The Respondent's business practices have changed. However, it looks like this claim has not even been substantiated by any evidence. And even if it was, the question of the already occurred violations would still remain to be addressed. This seems to be a point in mitigation rather than of exoneration.

¹³ Para 14 of the Answering affidavit and Para 8 of the Applicant's founding affidavit.

27. The Respondent disputed that the conducting of its business contravenes the Act, Regulations and its General Conditions of Registration as set out in paragraphs 14, 15 and 16 of the Applicant's founding affidavit¹⁴ and submitted that the late sole director caused the Respondent to contravene the sections set out in paragraphs 17, 18 and 19 of the Applicant's founding affidavit. This argument is doubtful and cannot succeed. The reason for this is that there are physical exhibits of all the claims made in the Inspection report that backs up these allegations against the Respondent. And the Respondent has not really denied that these are its own clients. The sixteen names listed above in Annexure C are the case in point.
28. The Respondent stated¹⁵ that the company conducting business at the previous address in Klerksdorp is **GT Loans CC** under **Natasha Janse van Rensburg** and as such the Respondent is not connected to it directly or indirectly. None of the parties elaborated on this revelation at the hearing.
29. The Respondent confirmed the correctness of the annual return¹⁶ submitted to the Applicant for the period of 1 March 2011 to 28 February 2012 indicating an annual turnover of R706 061.00 (Seven hundred and six thousand and sixty one Rand).
30. The Respondent confirmed being issued with a compliance notice¹⁷ and undertook to comply with the consent order. This is another promise after two different attempts to compel the Respondent already.
31. The Respondent denied¹⁸ that, it was still acting in contravention of the Act and is not complying with the order of the Tribunal. However, in the light of the need for evidence in support of this assertion, the Respondent argued, at the hearing, that it is not the burden of the Respondent to prove itself innocent, but rather the burden of the Applicant to prove the Respondent guilty on a balance of probabilities.
32. The Respondent denied that it was not disclosing all the costs which it is entitled to and had refunded to the credit receivers the costs and/or fees charged unlawfully by the previous management.¹⁹ While no proof of this was tendered at the hearing, the case of the Respondent hinged around the events of the future rather than those of the past. And the allegations against the Respondent in this case related more to the past conduct and not so much the future.

¹⁴ Para 18 of the Answering Affidavit and Para 14, 15 and 16 of the Applicant's founding affidavit.

¹⁵ Para 20 of the Answering affidavit.

¹⁶ Para 23 of the Answering affidavit.

¹⁷ Para 24 of the Answering affidavit.

¹⁸ Para 25 of the Answering affidavit.

¹⁹ Para 27 of the Answering affidavit.

33. The Respondent stated that, it had refrained from splitting the loans and undertook to liaise with the Applicant to ensure that it conducts itself in accordance with the requirements of the Act²⁰. Also the Respondent states that, since the inception of the new director²¹ it had:
- (a) Remedied the contraventions of the Act;
 - (b) Ensured compliance with the notice issued by the Applicant;
 - (c) Adhered to the consent order granted by the Tribunal; and
 - (d) Complied with its undertakings.

Once again, in the absence of any proof and even if there was proof, this could only assist the case of the Respondent going forward and not retrospectively.

34. The Respondent admitted that due to the previous poor and unacceptable conduct of its management²², contraventions of the Act took place. The Respondent was however, of late, compliant with the Act and ensured that consumers were not deprived of their right to a fair and accessible credit market. This made the contraventions common cause then.
35. In lieu of the above submissions, the Respondent prayed that the relief sought by the Applicant should not be granted²³, and therefore that the application be dismissed. The Respondent substantiated its prayer by submitting that it had done or undertook to do the following;
- (a) not to induce the signing of supplementary agreements;
 - (b) had already revised the wording of the credit agreements in order to comply with the requirements of the Act;
 - (c) had already stopped splitting loans and charging fees in excess of the prescribed maximum rates;
 - (d) undertook to bear the Nupay fees itself and not the consumers and this requirement would be excluded from its credit agreements going forward;
 - (e) the extension of credit to consumers under administration, even with their consent, had been stopped;
 - (f) undertook to furnish the consumers with pre-agreement statements and quotations;

²⁰ Para 29 of the Answering affidavit.

²¹ Para 31 of the Answering affidavit.

²² Para 28 and 30 of the Answering affidavit.

²³ Para 32 of the Answering affidavit.

- (g) undertook to ensure that all consumer credit records would be kept properly; and
- (h) would make use of a law firm to liaise with the Applicant and to ensure that it complied with the requirements of the Act.

All of paragraph 35 above merely confirms that the prohibited conduct occurred and this is common cause.

APPLICANT'S SUBMISSIONS IN REPLY

36. In its reply, the Applicant noted that:

- (a) The Respondent denied most of the charges and assigned all the blame to the former director. The Respondent further submitted that it is now in compliance with the Act without submitting any evidence to prove its compliance. We concur with this observation.
- (b) The Respondent was contradicting itself in stating that it undertook to utilise the services of a law firm to liaise with the Applicant and ensure that it is compliant with the Act. We also share this observation of the Applicant.
- (c) The Respondent was at all times fully aware of the former director's conduct since she was employed by the Respondent. The Respondent is, after all a corporate person and cannot be excused on the basis of the individuals that own, manage or drive it.
- (d) Any allegation of a refund must be supported by proof. We further concur with that.

ISSUES THAT ARE COMMON CAUSE

37. Even though the director of the Respondent denied that the Respondent was at the time of this application not complying with the Act and furthermore that she was responsible for the non-compliance, she has inadvertently admitted that the Respondent has contravened the Act. The exact contraventions are not admitted, although a statement is made to the effect that contraventions occurred under previous management.

ISSUES IN DISPUTE

38. The Respondent made a bare denial of the allegations against it and assigned blame to the former director. The majority of statements made by the current director of the Respondent were to the effect

that whatever contraventions took place at the Respondent occurred under previous management and had since been remedied. Even though the director averred that non-compliance has been remedied, she also undertook to remedy same in future.

CONCLUSIONS DRAWN

39. For the purposes of this analysis, the legal questions that were identified for consideration from the above texts were:
- (a) Whether the Respondent contravened the provisions of the Act, Regulations and its Conditions of Registration? The answer to this question is in the affirmative. It is evident from the above that the Respondent's bare denials regarding the substantiated allegations of the Applicant do not constitute a valid defence to such allegations. As the Respondent did not specifically deny the allegations made by the Applicant, in terms of Rule 13(5) of the Rules of the Tribunal, such allegations are deemed to be admitted.
 - (b) Whether there was sufficient proof, on a balance of probabilities, of contraventions of the Act before the Tribunal? The answer to this question is in the affirmative. And if so, whether such contraventions were made repeatedly as envisaged by Section 57(1) of the Act? And, once again, the answer to this question is in the affirmative.
 - (c) Whether the above contraventions of the Act constitute prohibited conduct? The answer to this question is in the affirmative. In NCR V J.W van Zyl²⁴ it was explained that "repeated contravention" in the context of Section 57(1) of the Act would mean a contravention that appeared at least twice, or more than that. **More than a single contravention of different sections of the Act and conditions of registration also constitute repeated contraventions.** In this case, the matter is rather *res ipsa loquitur*.
 - (d) **Prohibited conduct** is defined in the Act, as an act or omission in contravention of the Act, by *inter alia* a credit provider, which does not constitute an offence. Therefore, whenever a credit provider is required to do something or to refrain from doing something, this conduct may fall within the ambit of the definition of '**prohibited conduct**'. It is therefore held that the above-mentioned contraventions constitute prohibited conduct and that the Applicant's prayers relating to a declaration of prohibited conduct of these specific sections should be granted.

²⁴ NCT/3868/2012/57(1)(P) [2013] ZANCT 14 (14 June 2013).

- (e) Whether there was sufficient evidence placed before the Tribunal to impose an administrative fine as requested by the Applicant? In considering the Applicant's request that an administrative penalty be imposed on the Respondent, the Tribunal has taken cognisance of Section 151 of the Act. That section provides that this Tribunal may impose such a penalty in respect of prohibited conduct. In *NCR v Werlan Cash Loans t/a Lebathu Finance*²⁵ the Tribunal held that when considering this question, it would have to consider the legislation from which it derives its mandate and the factors listed in section 151(3) of the Act. And those factors include:
- (a) The nature, duration, gravity and extent of the contravention;
 - (b) Any loss or damage suffered as a result of the contravention;
 - (c) The behaviour of the respondent;
 - (d) The market circumstances in which the contravention took place;
 - (e) The level of profit derived from contravention;
 - (f) The degree to which the respondent has co-operate with the National Credit Regulator, or the National Consumer Commission, in the case of a matter arising in terms of the Consumer Protection Act, 2008 and the Tribunal; and
 - (g) Whether the respondent has previously been found in contravention of the Act, or the Consumer Protection Act 2008, as the case may be.
- (f) As a starting point, these considerations should be applied to the present matter. The use of the word "*must*" in section 151 (3) is indicative of the peremptory requirement that the Tribunal has to consider each of these factors. These factors can be applied to the present matter as follows:

(a) **The nature, duration, gravity and extent of the contravention**

The contraventions of the Act as set out in the papers before the Tribunal has been on-going for a substantial period of time and are very serious in nature. The Tribunal is of the view that this consideration is an aggravating factor as far as the determination of an administrative penalty is concerned.

²⁵ NCT/3867/2012/57(1).

(b) **Any loss or damage suffered as a result of the contravention**

The consumers, as set out in the investigation report, have *inter alia* suffered financial losses due to overcharging and have been subjected to unlawful credit agreements for the reasons set out above. These consumers have also been induced to the signing of supplementary NuPay agreements and paid the fees in respect of this service. In this respect reference is made to the Tribunal judgment of *The National Credit Regulator v Barko Financial Services* ²⁶ which was later upheld by the North Gauteng High Court, it was ordered that the credit provider refund consumers the service provider fee for processing payments, which when added to the service fee under the consumer credit agreement exceeded the prescribed R50.00. The Respondent was not entitled to charge the Nu-Pay fees where the fee, together with the service fee under the consumer credit agreement exceeded the prescribed R50.00. This is also an aggravating factor in the determination of an administrative penalty.

(c) **The behaviour of the Respondent**

The Respondent is claiming to have either been unaware of any contraventions of the Act or submits that the contraventions occurred due to poor management by the previous director. The current director of the Respondent was however an employee of the Respondent and should have been aware of its practices. A compliance notice was issued followed by an application for cancellation of the Respondent's registration which culminated in a settlement agreement that was made an order of the Tribunal. Neither of these obligatory steps prompted the Respondent to comply with the Act.

As indicated above, the failure of a previous director to properly manage the affairs of the Respondent, would not constitute a valid defence, but will be dealt with in terms of Section 77 of the Companies Act, No 71 of 2008 which specifically deals with the liability of directors. The Respondent's evident disregard of these steps, as well as the Respondent's disregard of the order of the Tribunal is aggravating.

(d) **The market circumstances in which the contravention took place**

The Respondent made submissions about the market in which there was a need to promote a free and accessible credit market. The conduct of the Respondent severely prejudiced the consumers. This is an aggravating consideration.

²⁶ NCT/743/2010/56(1)(P) .

(e) **The level of profit derived from contravention**

The Applicant submitted that the Respondent derived profit through practices such as splitting loans as well as charging fees which were not disclosed to the consumers. Almost all the credit agreements selected as part of the investigation revealed that consumers were charged interest, initiation fees and/or service fees or a combination of all three and the level of profit derived can only be ascertained once a full audit is undertaken. The Respondent's annual returns submitted to the Applicant for the period of 1 March 2011 to 28 February 2012 indicate an annual turnover of R706 061.00 (Seven Hundred and Six Thousand and Sixty One Rand)²⁷.

(f) **The degree to which the Respondent has co-operated with the National Credit Regulator**

It appears from the Applicant's submissions and the Respondent's response thereto, that the Respondent has not endeavoured to co-operate with the Applicant.

(g) **Whether the Respondent has previously been found in contravention of the Act**

Regarding the application of Section 166(2), it has also to be considered whether or not the Respondent only contravened a previous Tribunal order.

- (i) As stated above, the Applicant has, in the matter at hand, brought an application for the cancellation of the Respondent's registration on the grounds that the Respondent contravened the Act and its Regulations. This application is however against the backdrop of a similar application brought by the Applicant in 2009, which resulted in a settlement agreement which was made an order of the Tribunal.
- (ii) Whether the provisions of the Act contravened by the Respondent in the two applications differ, is not addressed by the Applicant. The Applicant addressed the Tribunal on the previous application and consent order. It was alleged by the Applicant that the 2009 order of the Tribunal stipulates that the Respondent shall refrain from contravening the Act.

²⁷ Applicant's founding affidavit at para 26.

(h) It is not only the evidence that is placed before the Tribunal by the Applicant that shows repeated contraventions of the Act, but also the admissions made by the Respondent in the answering affidavit. It can be said that the Respondent, on the evidence before the Tribunal and on its own version, contravened the following sections of the Act repeatedly in that:

- (a) It's conduct was in contravention of Section 91(a) of the Act, by inducing consumers to sign supplementary agreements that contained unlawful provisions when included in the credit agreements.
- (b) It's conduct was in contravention of Section 90(2)(b)(i) and (ii) of the Act by requiring consumers to sign credit agreements with unlawful provisions depriving the consumers certain rights enshrined in Act.
- (c) It's conduct was in contravention of Sections 101(1)(d)(i) and (ii), 102 and 105 read with Regulation 42(1) and 44 of the Act by splitting the loans and thereby charging fees in excess of the prescribed rates.
- (d) It's conduct was in contravention of Section 100(1)(d) of the Act by charging the consumers Nu-Pay fees included in the cost of credit as prohibited by Section 101(1) of the Act.
- (e) It's conduct was in contravention of Section 89(2)(a)(ii) of the Act by granting credit to consumers under administration.
- (f) It's conduct was in contravention of Sections 92(1) and 92(3)(a) read together with Regulation 28(2) of the Act and alternatively Regulation 55(1)(b)(iv) read with the Respondent's conditions of registration, by failing to furnish the consumers with pre-agreement statements and quotations, alternatively failing to retain such documents in the consumer files.
- (g) It's conduct was in contravention of the Respondent's general conditions of registration A1 by failing to comply with all the applicable legislation relating to the operation of the business or a credit provider.

40. The aspects that the Tribunal would have to consider when deciding on the cancellation of the Respondent's registration can be gleaned under section 57 of the Act. The requirements for the cancellation of the registration of a registrant are set out in Section 57 (1) of the Act provide that:

"Subject to subsection (2), a registration in terms of this Act may be cancelled by the Tribunal on request by the National Credit Regulator, if the registrant repeatedly-

(b) fails to comply with any conditions of its registration ;

(c) fails to meet a commitment contemplated in section 48(1);

or

(d) contravenes the Act."

41. The evidence before the Tribunal and the admissions made by the Respondent indicated that the requirements of Section 57(1) of the Act were met and in deciding on an appropriate order, the Tribunal must take into consideration:²⁸

- (i) The seriousness of the contraventions;
- (ii) The position of the Respondent; and
- (iii) The rights of the consumers.

42. Seriousness of the contraventions

(i) The contraventions by the Respondent are serious. In the matter of the *National Credit Regulator v Piet Cash Loans*²⁹ the Tribunal held that the contraventions by the respondent, which were similar to the contraventions in this matter, are extremely serious.

(ii) The Tribunal, in that matter, found that the respondent repeatedly contravened the Act and cancelled the respondent's registration as a credit provider. As for the remaining contraventions of the Act as alleged and proven by the Applicant, each of the contraventions set out above is in fact a contravention of the Act and each of these contraventions did occur on more than one occasion. Each of the alleged contraventions is also serious in nature.

²⁸ These factors were identified by the Tribunal in the matter of *NCR v Van Dyk* NCT/2017/2011/57(1). The same factors were considered in other matters such as *NCR v Kibogo* NCT/2881/2011/57(1) and *NCR v Njokweni* NCT/70/2009/57(1).

²⁹ NCT/654/2010/57(1).

43. The position of the Respondent

- (i) Cancelling the registration of a registrant may have serious consequences for such a person. This is however not the only factor to consider and when the seriousness of the contraventions and the prejudice suffered by the consumers are weighed up against the effect of the cancellation of the Respondent's registration, it is submitted that the Respondent's position cannot in any way justify the severity of its contraventions and the prejudice that consumers suffer and will continue to suffer as a result thereof. In the matter of *NCR v Van Dyk*³⁰ which was an application for cancellation of the registration of a debt counsellor, the Tribunal held as follows:

"The Tribunal is well aware that cancelling a registrant's registration has very serious consequences. For a debt counsellor, this means that she must cease acting as a debt counsellor. In the case of the Respondent, her business will be at an end, she will have to dispose of the infrastructure of her business, she will have to retrench her staff and any investment made to set up the business will be lost. However, the Tribunal regards the financial irregularities in this matter to be so serious that deregistration of the Respondent in this matter is the appropriate order"

- (ii) The Tribunal is of the view that the same applies in this matter. Even though the cancellation of the Respondent's registration may have very serious consequences for itself, its employees and the consumers making use of its services (despite the prejudice suffered by these consumers as a result of the Respondent's practices), the contraventions of the Act in this matter are so serious that deregistration of the Respondent is the appropriate order.

44. The rights of the consumers

The rights of the consumers are severely prejudiced by the Respondent's practices and its continued contraventions of the Act. The Respondent *inter alia* entered into unlawful credit agreements with consumers, charged fees and interest in excess of the prescribed rates. This is severely prejudicial to consumers and is also in direct contrast with the purpose of the Act.

³⁰ NCT/2017/2011/57(1)(P) at para 38.

45. The Case for Contempt

- (i) All orders of court, whether correctly or incorrectly granted, have to be obeyed until set aside.³¹ It is vital to the administration of justice that those affected by court orders obey them. Disregard cannot be tolerated and contempt applications are by their nature urgent.³² Thus, civil contempt proceedings exist in order that a court order stemming from civil proceedings may be brought to a logical conclusion by the imposition of a penalty in order to vindicate the court's authority.³³ Contempt flowing from civil proceedings is itself a criminal offence and, as such, can be prosecuted by the state.³⁴ Contempt is the wilful and *mala fide* refusal or failure to comply with an order of court. The order must, obviously, have been clear and unambiguous and capable of enforcement.³⁵
- (ii) Contempt of an order by the Tribunal would be viewed in the same light. This is evident by Section 160(1) of the Act which states that a person commits an offence if it contravenes or fails to comply with an order of the Tribunal. The Respondent appears to have indeed been in contempt of the 2009 order of the Tribunal.
- (iii) The Applicant therefore has the option of applying to a court of law, following the relevant processes as set out in the Act, to consider contempt of the 2009 order of the Tribunal.

46. Could the matter be *Res judicata*?

The Tribunal has had to also *mero motu* consider whether this matter could be *res judicata*. *Res judicata* means that a matter or proceeding have come to an end by a judicial decision. The requisites of *res judicata* in Roman- Dutch law are that the matter adjudicated upon, on which the defence relies, must have been for the same cause, between the same parties and the same thing must have been demanded. The courts, most notably in *Horowitz v Brock and Others 1988 (2) SA 160 (A) at 178H to 179C*; *Custom Credit Corporation (Pty) Ltd v Shembe 1972 (3) SA 462 (A) at 472*, to mention a few cases, have followed this Roman-Dutch approach. Voet in his work *Commentarius ad Pandectas*, 44.2.3 wrote:

³¹ Culverwell v Beira 1992 (4) SA 490 (W) 494.

³² Protea Holdings Ltd v Wriwt 1978 (3) SA 865 (W); Mutebwa v Mutebwa [2001] 1 All SA 83 (Tk), 2001 (2) SA 193 (Tk); Federation of Christian Bodies of South Africa (Central) v MEC for Education, Gauteng 2002 (4) SA 660 (T); Victoria Park Gatepayers Association v Greyvenouw CC [2004] 3 All SA 623 (SE); Laubschner v Laubschner [2004] 4 All SA 95 (1), 2004 (4) SA 350 (T).

³³ Ibid

³⁴ Ibid

³⁵ Uncedo Taxi Service Association v Maninjwa [1998] 2 All SA 650 (Tk), 1998 (3) SA 417 (E); Uncedo Taxi Service Association v Mtwi 1999 (2) SA 495 (E) 500.

*“Under no other circumstances is the exception allowed than where the concluded litigation is again commenced between the same persons, in regard to the same thing, and for the same cause of action, so much so, that if one of these requisites is wanting, the exception fails. (see **Bertram v Wood 1893 (10) SC 177 at 181**).”*

47. In *Liley v Johannesburg Turf Club; Horowitz v Brock; Boland Bank Bpk v Steele* 1994 (1) SA 259 (T) and *Kommissaris van Binnelandse Inkomste v Absa Bank Bpk* 1995 (1) SA 653 (A), it was accepted that *res judicata* necessarily involves a judicial determination of some question of law or issue of fact, in the sense that the decision could not have been legitimately or rationally pronounced by the tribunal without, at the same time, determining that question or issue in a particular way.
48. It is uncertain as to whether the facts considered in respect of prohibited conduct in the 2009-application were different from the facts to be considered in the current application. It does appear to be the exact same facts., Whether a further investigation has been held after the 2009 application is also uncertain..
49. Should the facts indeed be the exact same facts substantiating the 2009-application, *res judicata* does apply. The Applicant would then be precluded from requesting the cancellation of the Respondent's registration, as an order has been granted by the Tribunal which considered similar facts, without doing a further investigation to determine which prohibited practises, if any, are currently being perpetrated by the Respondent.

ARGUMENTS IN MITIGATION

50. The salient observations at the hearing of the 1st of August 2013 were that the thrust of the Respondent was not to argue the merits of the allegations made against it. Instead the Respondent argued in mitigation of all the alleged conduct by itself, whether deliberately or under the influence and misleading of Nupay. The argument centred on persuading this Tribunal that the cancellation prayed for by the Applicant was too harsh.
51. The Respondent argued, at the hearing, also that:

(a) Section 57 applies to any contravention of any part of the Act;

(b) Section 57 provides that “*Subject to subsection (2), a registration in terms of this Act may be cancelled by the Tribunal on request by the National Credit Regulator, if the registrant repeatedly-*

(a) fails to comply with any conditions of its registration ;

(b) fails to meet a commitment contemplated in section 48(1); or

(c) Contravenes the Act.”

(c) The “*may*” in the section does not make it a “*must*” for the Tribunal to cancel the registration in terms of the said section;

(d) The sanction proposed by the Applicant was not in line with the happenings on the ground. In this regard the Respondent was arguing the fact that there had been a change of directorships since the contraventions which were common cause. Regarding this point, this Tribunal is of the view that the entity as a (Pty) Ltd company is an entity apart from its directors and owners. There is strict liability in that it does not matter who was in charge of the company at any given time, but it matters whether the company, and not so much the individuals in it, did.

(e) The Respondent as it was on the day of the hearing (1st August 2013), had just around 110 clients. The random sample drawn of 16 clients covered by the investigation of the Applicant, were only around 10% of the clients of the Respondent. However, this Tribunal is of the view that, as submitted by the Applicant at the hearing, the sample of 16 clients inspected, were not indicative of the percentage of the clients of the Respondent that suffered the prohibited conduct. It is not known how many more contraventions would have been found or not found, were the sample drawn larger.

(f) Since the rectification of the practices of the Respondent in 2011, the Applicant had not inspected the practices of the Respondent further. But the practices had already been corrected since. In the view of this Tribunal, this line of argument does not have relevance to the issues to be decide and does very little to assist even as a mitigating factor. It does, however have application as a mitigation factor and is treated and such in this judgment.

(g) The cancellation that the Applicant prayed for would do more harm than good. The Tribunal should rather consider a penalty as well as an assurance that prejudiced clients of the Respondent are compensated and refunded where appropriate. But cancellation would collapse

the business all together and remove from it the ability to possibly make amends to the prejudiced clients. This assertion was denied by the Applicant which felt that the cancellation would itself provide the relief that the clients of the Respondent already needed. This Tribunal concurs with this view, as the purpose of the Act is, amongst other things, to protect consumers from unconscionable, unfair, unreasonable, unjust or deceptive, misleading, unfair or fraudulent conduct - section 3 (1)(d).

- (h) Instead of cancelling the registration of the Respondent, this Tribunal should instead rather order that:
- (i) An audit by the NCR be conducted at the expense of the Respondent, to establish that the conduct of the Respondent is now compliant and to establish what refunds need to be made to affected clients of the Respondent; and
 - (ii) Return the findings to the Tribunal with proof of refunds made to affected clients of the Respondents. This Tribunal finds it difficult to concur with this request. This is in the light of the fact that the Respondent has already more than once had such concessions made in its favour. It should have taken those and corrected its conduct. The last investigation by the Applicant should not have found any further violations of the Act if the Respondent had taken upon those concessions and made good. It failed to do so. There is no justification to single out the Respondent, a repeat offender, in this case and keep piling it up with concessions upon violated concessions. This would be contrary to the letter and spirit and purpose of the Act.
 - (i) The Tribunal should decide the outcome of this matter, based on whether a case has been made out, not of the contraventions, but of the weight of the justification for a cancellation than the more remedial approaches proposed by the Respondent above.

THE QUESTION OF AN ADMINISTRATIVE FINE

52. While The Respondent confirmed the correctness of the annual return³⁶ submitted to the Applicant for the period of 1 March 2014 to 28 February 2015 indicating an annual turnover of R100 000,00, the

³⁶ Para 23 of the Answering affidavit.

Respondent also complained that the proposed R1000 000.00 was exorbitant. It instead submitted as for the time of the hearing, its financial situation was such that:

- (a) The average loans size of its clients is R2000.00;
- (b) The gross earnings per month are around R35000.00 per month; and
- (c) The net profit ranges between R13000.00 and R15000.00 per month.

53. Section 112 (2) of the NCA allows this Tribunal to impose an administrative fine of 10% of annual turnover capped at R1000 000.00 of the offending entity. Based on the above financial information that was unopposed, it is quite conclusive that the annual turnover of the Respondent stood at R420 000 per annum. This amount is less than the R1000 000.00 which is the maximum allowed.

54. In determining the quantum of the administrative fine, section 112(3) of the NCA prescribes that the Tribunal should consider the factors already analysed in paragraph 24.3 in this judgment. And in summary these points indicate above that:

- (a) The nature of the contraventions is serious and these are repeated;
- (b) The Respondent showed no remorse as it defied even previous attempts to stop its conduct which came as far as the Tribunal;
- (c) The contraventions occurred in an open credit market, affecting the vulnerable members of society as submitted in oral presentations; and
- (d) The Respondent failed to cooperate with the efforts to correct it that applied prior to the last inspection that led to this case.

ORDER

55. Due to the reasons canvassed in this judgment, this Tribunal hereby concludes that it has already been proven as common cause that the Respondent did engage in prohibited conduct. The Applicant has made out a case of the Respondent having also engaged in repeated prohibited conduct as defined in section 150(a) of the NCA. The Tribunal is also of the view that because of the reasons contained in paragraph 54 above, the alleged contraventions justify the imposition of an administrative fine against the Respondent. There is justification to also cancel the registration of the Respondent in terms of sections 150(g) and 57(1) of the NCA.

56. It is therefore, hereby ordered that:

- (a) The registration of the Respondent is hereby cancelled with immediate effect; and
- (b) The Respondent is to pay an administrative fine of R420 000.00 within 30 days of receiving this judgment.

Thus done and handed down at Centurion this 10th Day of October 2013.

[signed]

Prof. Joseph M. Maseko
Presiding Member

Ms PA Beck and Mr X May concurring

Authorised for issue by the National Consumer Tribunal

Case number NCT/7751/2013/57(1)

Date 2013 / 11 / 14
yy / mm / dd

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