



**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case No: CO206Nov18

In the matter between:

The Competition Commission

Applicant

And

Women on Board CC

Respondent

Panel : N Manoim (Presiding Member)
F Tregenna (Tribunal Member)
M Mokuena (Tribunal Member)

Heard on : 14 November 2018

Decided on : 14 November 2018

Consent Agreement

The Tribunal hereby confirms the consent agreement as agreed to and proposed by the Competition Commission and Women on Board CC annexed hereto marked "A".



Presiding Member
Mr Norman Manoim

14 November 2018
Date

Concurring: Prof. Fiona Tregenna and Mrs Medi Mokuena.

"A"

IN THE COMPETITION TRIBUNAL OF SOUTH AFRICA

CT CASE NO: C0206Nov18

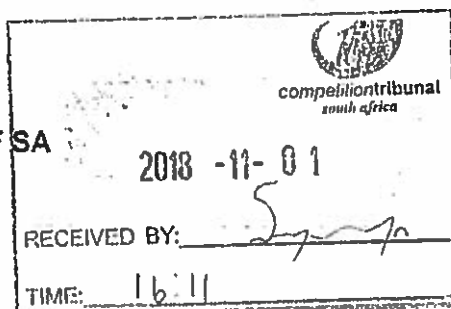
CC CASE NO: 2017NOV0067

In the matter between:

COMPETITION COMMISSION OF SA

And

WOMEN ON BOARD CC



Applicant

Respondent

CONSENT AGREEMENT IN TERMS OF SECTION 49D READ WITH SECTION 58(1) (b) OF THE COMPETITION ACT, NO. 89 OF 1998, AS AMENDED, BETWEEN THE COMPETITION COMMISSION AND WOMEN ON BOARD CC, IN RESPECT OF A CONTRAVENTION OF SECTION 4(1)(b)(iii) OF THE COMPETITION ACT 89 OF 1998

PREAMBLE

The Competition Commission ("Commission") and Women on Board CC ("Women on Board") hereby agree that an application be made to the Competition Tribunal for the confirmation of this Consent Agreement as an order of the Tribunal in terms of section 49D read with section 58(1)(b) of the Competition Act no. 89 of 1998, as amended, in respect of a contravention of section 4(1)(b)(iii) of the Act.

1. DEFINITIONS

For the purposes of this consent agreement the following definitions shall apply:

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- 1.1 "Act" means the Competition Act No. 89 of 1998, as amended;
- 1.2 "Bohay Construction CC" means a close corporation duly registered in accordance with the laws of the Republic of South Africa, with its principal place of business situated at 44 Gladioli Street, Soneike, Kuils River, Western Cape;
- 1.3 "Commission" means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Act, with its principal place of business at 1st Floor, Mulayo Building (Block C), the DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng;
- 1.4 "Commissioner" means the Commissioner of the Competition Commission (the Commissioner) appointed in terms of section 24(1) of the Act;
- 1.5 "Consent Agreement" means this agreement duly signed and concluded between the Commission and Women on Board;
- 1.6 "Landee Cleaning Services" means a close corporation duly registered in accordance with the laws of the Republic of South Africa, with its principal place of business situated at 44 Gladioli Street, Soneike, Kuils River, Western Cape;
- 1.7 "Parties" means the Commission and Women on Board;
- 1.8 "Respondents" means Women on Board CC ("Women on Board"); Landee Cleaning Services CC ("Landee Cleaning Services") and Bohay Construction and Cleaning CC ("Bohay Construction");

1.9 "Tribunal" means the Competition Tribunal of South Africa, a statutory body established in terms of section 26 of the Act, with its principal place of business at the 1st Floor, Mulayo building (Block C), the DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng;

1.10 "Women on Board" means a close corporation duly registered in accordance with the laws of the Republic of South Africa, with its principal place of business situated at 44 Gladioli Street, Soneike, Kuils River, Western Cape.

2. INVESTIGATION AND FINDINGS OF THE COMMISSION

2.1 On 29 November 2017, the Commissioner initiated a complaint in terms of section 49B(1) of the Act, whereby it is alleged that the Respondents entered into an agreement and / or engaged in a concerted practice to tender collusively in response to a tender issued by the City of Cape Town in contravention of section 4(1)(b)(iii) of the Act.

2.2 The tender was for mowing of public open spaces, road reserves and cemeteries.

2.3 The Commission's investigation found that the Respondents colluded when submitting their bids for tender no: 206S/2014/15. The Respondents agreed on the prices each would submit to the City of Cape Town in response to the above mentioned tender.

2.4 The Respondents also agreed on formula to use when negotiating annual price adjustments for the duration of the contract with the City of Cape

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Town. The formula related how their labour costs and variable costs would be adjusted.

- 2.5 This conduct amounts to collusive tendering in contravention of section 4(1)(b)(iii) of the Act.

3. ADMISSION

- 3.1 Women on Board admits that it has contravened section 4(1)(b)(iii) of the Act as described in paragraph 2 above.

4. ADMINISTRATIVE PENALTY

- 4.1 Women on Board agrees that it is liable to pay an administrative penalty of R4 476.60 (Four thousand, four hundred and seventy six rand and sixty cents). This amount does not exceed 10% of Women on Board's annual turnover for the financial year ended February 2017.

- 4.2 Women on Board shall pay the amount set out above in paragraph 4.1 to the Commission within 30 (thirty) days from the date of confirmation of this Consent Agreement as an order of the Tribunal.

- 4.3 The administrative penalty shall be paid into the Commission's bank account, details of which are as follows:

Name: The Competition Commission Fee Account

Bank: Absa Bank, Pretoria

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Account Number: 4087641778

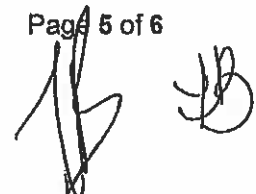
Branch Code: 323 345

Ref: 2017Nov0067/Women on Board

- 4.4 The administrative penalty will be paid over by the Commission to the National Revenue Fund in accordance with section 59(4) of the Act.

5. AGREEMENT REGARDING FUTURE CONDUCT

- 5.1. Women on Board undertakes to refrain from engaging in any anti-competitive conduct in contravention of the Act in future.
- 5.2. Women on Board will develop, implement and monitor a competition law compliance programme as part of its corporate governance policy, which designed to ensure that all employees, members and management do not engage in future contraventions of the Act. In particular, such compliance programme will include mechanisms for the identification, prevention, detection and monitoring and detection of any contraventions of the Act.
- 5.3. Women on Board shall circulate a statement summarising the contents of this Consent Agreement to all management and operational staff employed by Women on Board within 60 (sixty) business days from the date of confirmation of this Consent Agreement by the Tribunal.
- 5.4. Women on Board undertakes to submit a copy of such compliance programme to the Commission within 60 days of the date of confirmation of this Consent Agreement as an order to the Tribunal.

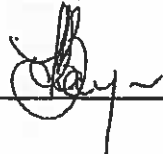
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5.5. Undertakes henceforth to engage in competitive practices.

6. FULL AND FINAL SETTLEMENT

6.1 This Consent Agreement is entered into in full and final settlement of the Commission's investigation under Case No. 2017Nov0067 and upon confirmation as an order of the Tribunal, concludes all proceedings between the Commission and Women on Board relating to the conduct that is the subject of the Commission's investigation under Case No. 2017Nov0067.

For WOMEN ON BOARD



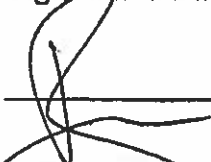
Signed and Dated at Plumstead on the 23 day of October 2018.

Name in Full: Ms. Francine Booysen

Designation: _____

For the Competition Commission

Signed and Dated at PRETORIA on the 30th day of October 2018.



Name in Full: TEMBINKOSI BONAKELE

Designation: COMMISSIONER OF THE COMPETITION COMMISSION

