



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No.:CO107Oct25

In the matter between:

The Competition Commission

Applicant

And

Gwalimba Construction (Pty) Ltd

Respondent

Panel:	AW Wessels (Presiding Member)
	A Ndoni (Tribunal Member)
	G Budlender (Tribunal Member)

Heard on:	20 April 2026
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Decided on:	21 April 2026
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ORDER

The Tribunal hereby confirms the consent agreement concluded between the Competition Commission and Gwalimba Construction (Pty) Ltd dated 30 September 2025 as well as the addendum to the consent agreement dated 16 March 2026 annexed hereto.

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Presiding Member
Mr Andreas Wessels

21 April 2026

Date

Concurring: Ms Andiswa Ndoni and Adv. Geoff Budlender SC

**IN THE COMPETITION TRIBUNAL OF SOUTH AFRICA
(HELD IN PRETORIA)**

CT Case No:

CC Case Nos: 2023JUN0045

and 2024MAY0016

In the matter between:

THE COMPETITION COMMISSION

Applicant

And

GWALIMBA CONSTRUCTION (PTY) LTD

Respondent

**CONSENT AGREEMENT IN TERMS OF SECTION 49D AS READ WITH SECTIONS
58(1)(a)(iii) AND 58(1)(b) OF THE COMPETITION ACT, 89 OF 1998, AS AMENDED
("THE ACT"), BETWEEN THE COMPETITION COMMISSION AND GWALIMBA
CONSTRUCTION (PTY) LTD, IN RESPECT OF CONTRAVENTIONS OF SECTIONS
4(1)(b)(i), (ii) AND (iii) OF THE ACT**

The Competition Commission of South Africa and Gwalimba Construction (Pty) Ltd hereby agree that an application be made to the Competition Tribunal for the confirmation of this Consent Agreement as an order of the Competition Tribunal in terms of section 49D read with sections 58(1)(a)(iii) and 58(1)(b) of the Competition Act, No. 89 of 1998 (as amended) on the terms set out below.



1. **Definitions**

For the purposes of this Consent Agreement the following definitions shall apply:

- 1.1. **"Act"** means the Competition Act, 89 of 1998, as amended;
- 1.2. **"Commission"** means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Competition Act, with its principal place of business at 1st Floor, Mulayo Building (Block C), the DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng;
- 1.3. **"Commissioner"** means the Commissioner of the Commission, appointed in terms of section 22 of the Competition Act;
- 1.4. **"Complaints"** means the complaint submitted by the Department of Home Affairs in terms of section 49B(2)(b) of the Competition Act, under case number 2023JUN0045, on 28 June 2023 and the complaint initiated by the Commissioner in terms of section 49B of the Competition Act, under case number 2024MAY0016, on 26 April 2024;
- 1.5. **"Consent Agreement"** means this agreement duly signed and concluded between the Commission and Gwalimba;
- 1.6. **"Gwalimba"** means Gwalimba Construction (Pty) Ltd, a private company duly registered in accordance with the laws of South Africa, having its principal place of business situated at 284 Erasmus Avenue, Raslouw, Centurion, South Africa;
- 1.7. **"Parties"** means the Commission and Gwalimba;

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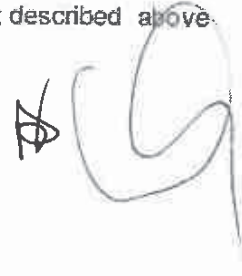
- 1.8. **"Superway"** means Superway Construction (Pty) Ltd, a private company duly incorporated in accordance with the laws of the Republic of South Africa with its principal place of business is situated at 20 Ouklipmuur Avenue, Equestria Holding 102, Willow Glen, Pretoria, South Africa; and
- 1.9. **"Tribunal"** means the Competition Tribunal of South Africa, a statutory body established in terms of section 26 of the Competition Act, with its principal place of business at 3rd Floor, Mulayo building (Block C), the DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng.

2. THE COMMISSION'S INVESTIGATION AND FINDINGS

- 2.1. On 28 June 2023, the Department of Home Affairs ("DHA") submitted a collusive tendering complaint in terms of section 49B(2)(b) of the Competition Act No.89 of 1998, as amended ("the Act"), against Gwalimba and Superway, ("the Respondents"), for alleged contravention of section 4(1)(b)(i) and (iii) of the Act. This complaint was investigated under case number: 2023JUN0045.
- 2.2. The allegations against the Respondents are, amongst others that, they may have agreed to **tender collusively when responding to a Request for Quotation ("RFQ") Number RFQ011**, issued by the DHA. The RFQ was for the provision of building repair and maintenance work to achieve fire compliance at the Department of Home Affairs offices situated at Church Square, Pretoria CBD.
- 2.3. During the investigation of the above complaint, the investigation team obtained information which indicated that the Respondents had a longstanding agreement not to compete on tenders.

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- 2.4. Based on this information, the Commissioner Initiated another complaint against the Respondents. This complaint was investigated under case number: 2024MAY0016.
- 2.5. The Commission's investigation found that Mr. Stephan Tolmay of Superway and Mr. Wayne Lightening of Gwalimba are long-term friends. The investigation found that the Respondents agreed that Gwalimba would not bid in competition with Superway in relation to identified customers of Superway. These customers were mainly in the public sector and included customers such as the Department of Home Affairs, South African Police Services ("SAPS"), Armaments Corporation of South Africa ("ARMSCO") and Purchasing Consortium of Higher Education South Africa ("PURCO").
- 2.6. The tenders in respect of which the Respondents colluded were mainly in the market for the provision of general construction and electrical services, including construction of new buildings, renovations and maintenance work as well as wiring, installation and maintenance of electrical systems.
- 2.7. The investigation also found that Gwalimba agreed not to compete with Superway in exchange for being appointed as a subcontractor of Superway. In situations where Gwalimba was interested in these tenders issued by these clients, it would first have to obtain permission or consent from Superway to submit a tender. This consent was granted by Superway for Gwalimba to submit its own bid in respect of the aforementioned RFQ.
- 2.8. The Commission concluded that the Respondents' conduct described above amounted to price fixing, market division by allocating

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customers and collusive tendering in contravention of section 4(1)(b)(ii) and (iii) of the Act.

3. ADMISSION OF LIABILITY

- 3.1. The Commission has decided not to demand that Gwalimba admit that it contravened section 4(1)(b) of the Act in relation to the conduct described in paragraph 2 above.

4. ADMINISTRATIVE PENALTY

- 4.1. Gwalimba agrees and undertakes to pay an administrative penalty in the amount of R50,000.00 (Fifty Thousand Rands). This amount does not exceed ten (10%) percent of Gwalimba's annual turnover in South Africa during the financial year 2024.
- 4.2. Gwalimba undertakes to pay the amount set out in paragraph 4.1. above in 5 (five) consecutive monthly instalments of R10 000 (Ten Thousand Rand), starting 30 (thirty) days from the date of confirmation of this Consent Agreement as an order of the Tribunal and the remaining installments due on the last day of each succeeding month.
- 4.3. Gwalimba shall pay the administrative penalty in the following bank account of the Commission:

Name of Account:	COMPETITION COMMISSION PENALTY ACCOUNT
Bank name:	ABSA BANK PRETORIA
Branch:	Pretoria
Account Number:	4087641778
Branch Code:	632005
Ref:	2024MAY0016/GWALIMBA

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

5. FUTURE CONDUCT

5.1. Gwalimba agrees to –

- 5.1.1. refrain from engaging in conduct that amounts to a contravention of section 4(1)(b) of the Act;
- 5.1.2. prepare and circulate a statement summarising the contents of this Consent Agreement to its employees, including managers and directors within 14 (fourteen) business days of the date of confirmation of this Consent Agreement as an order of the Tribunal;
- 5.1.3. develop, implement and monitor the competition law compliance programme as part of its corporate governance policy, which is designed to ensure that its employees, management, directors and agents do not engage in future contraventions of the Act. In particular, such compliance programme should include mechanisms for the identification, prevention, detection and monitoring of any contravention of the Act;
- 5.1.4. submit a copy of such compliance programme to the Commission within sixty (60) days of the date of confirmation of this Consent Agreement as an order by the Tribunal.

6. COMPLIANCE

- 6.1. All compliance reports and proof of payments relating to this matter shall be

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forwarded to the Commission at CartelSettlements@compcom.co.za.

7. FULL AND FINAL SETTLEMENT

7.1. This Consent Agreement, upon confirmation as a consent order by the Tribunal, is entered into in full and final settlement in respect of the Commission's investigation into the activities of Gwalimba under case numbers 2023JUN0045 and 2024MAY0016 and concludes all proceedings between the Commission and Gwalimba in relation to the conduct described in paragraph 2 above.

Dated and signed at CENTURION on the 8th day of SEPTEMBER 2025


For Gwalimba Construction (Pty) Ltd

Name in Full: WAYNE FRANK LIGHTENING

Designation: DIRECTOR

Dated and signed at Pretoria on the 30 day of September 2025


Ms. Doris Tshepe
Commissioner

IN THE COMPETITION TRIBUNAL OF SOUTH AFRICA
(HELD IN PRETORIA)

CT Case: CO107OCT25

CC Case: 2023Jun0045/2024May0016

In the matter between:

THE COMPETITION COMMISSION

Applicant

And

GWALIMBA CONSTRUCTION (PTY) LTD

Respondent

**ADDENDUM TO THE CONSENT AGREEMENT CONCLUDED BETWEEN THE
COMPETITION COMMISSION AND GWALIMBA CONSTRUCTION (PTY) LTD, IN
RESPECT OF CONTRAVENTIONS OF SECTIONS 4(1)(b)(i), (ii) AND (iii) OF THE
COMPETITION ACT, 1998.**

It is hereby recorded, by agreement between the parties, that the Consent Agreement concluded between the Competition Commission and Gwalimba Construction (Pty) Ltd, be supplemented as recorded below:

1. INSERTING PARAGRAPH 3A TO READ AS FOLLOWS:

ADMISSION OF LIABILITY

3A. Gwalimba does not admit liability in respect of the alleged prohibited conduct described in paragraph 2.

2. INSERTING PARAGRAPH 5A TO READ AS FOLLOWS:

COOPERATION

5A. Gwalimba agrees to fully cooperate with the Commission in its prosecution of Superway in the alleged prohibited conduct described in paragraph 2. This cooperation includes, but is not limited to the following:

5A.1. Provide evidence, written or otherwise, which is in the possession of Gwalimba or under its control, concerning the alleged prohibited practices set out in paragraph 2.



5A.2. Testify under oath during the hearing of the complaint referral against Superway, in respect of the prohibited practices set out in paragraph 2.

3. This addendum shall be deemed to be incorporated into and form part of the Consent Agreement and, unless otherwise stated, the words and phrases used in this addendum shall bear the meaning ascribed to them in the Consent Agreement.

Dated and signed at CENTURION on the 18th day of FEBRUARY 2026

For Gwalimba

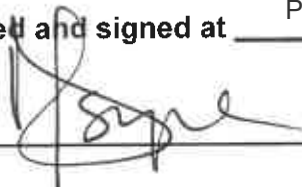


Name in Full: WAYNE FRANK LIGHTENING

Position DIRECTOR

For the Commission

Dated and signed at Pretoria on the 16 day of March 2026



Doris Tshepe
Commissioner