



COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA

Case No: CO282Feb18

In the matter between:

The Competition Commission

Applicant

And

A&B Movers CC

Respondent

Panel : N Manoim (Presiding Member)
E Daniels (Tribunal Member)
Y Carrim (Tribunal Member)

Heard on : 7 March 2018

Decided on : 3 April 2018

Consent Agreement

The Tribunal hereby confirms the consent agreement as agreed to and proposed by the Competition Commission and A&B Movers CC annexed hereto marked "A" and the addendum thereto.



Presiding Member
Mr Norman Manoim

3 April 2018
Date

Concurring: Mr Enver Daniels and Ms Yasmin Carrim.

"A"

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

CT CASE NO: C0282 Feb 18
CC CASE NO: 2017Mar0021

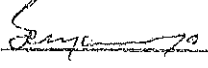
In the matter between:

THE COMPETITION COMMISSION

Applicant

And

A&B MOVERS CC

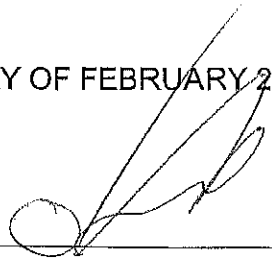
	
2018 -02- 14	
RECEIVED BY:	
TIME:	11:36

Respondent

FILING SHEET

BE PLEASED TO TAKE NOTICE that the applicant hereby files the consent agreements concluded between the Competition Commission and A&B Movers CC

DATED AT PRETORIA ON THIS 14 DAY OF FEBRUARY 2018



COMPETITION COMMISSION

77 Meintjies Street
The Dti Campus, 3rd Floor
Block C Mulayo Building
Sunnyside, Pretoria
Tel: 012 762 6956

Ref: OfentseMotshudi/ 2017Mar0021

Email: OfentseM@compcom.co.za

To: THE REGISTRAR

Competition Tribunal

3rd Floor, Mulayo

The DTI Campus

77 Meintjies Street

Sunnyside

Pretoria

Tel: (012) 394-3300/55

Fax: (012) 394-0169

E-mail address: Leratom@comptrib.co.za

And To: A&B Movers CC

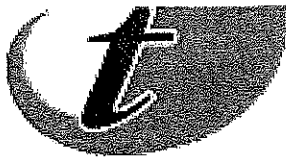
16 Garfield Road

Alrode

Tel: 011 908 3900

Fax: 086 263 1062

By Email: maria@abmovers.co.za



competitiontribunal south africa

Form CT1(1)

About this Form

This form is issued in terms of section 50 of the Competition Act and Rules.

This form is to be used only for a referral by the Competition Commission.

Unless this is a consent proceeding, the respondent may answer this referral within 20 business days after being served with this referral.

If the answer raises only a point of law, it must set out the question of law to be resolved. Any other answer must be in affidavit form, setting out in numbered paragraphs:

- (a) a concise statement of the grounds on which the Complaint is opposed;
- (b) the material facts or points on which the respondent relies;
- (c) an admission or denial of each ground and of each material fact relevant to each ground set out in the Complaint Referral.

An allegation of fact set out in the Complaint Referral that is not specifically denied or admitted in an answer will be deemed to have been admitted.

Please see Competition Tribunal Rules 14 through 19.

Form continues on Page 2.

Contacting the Tribunal

The Competition Tribunal
Private Bag X24
Sunnyside
0132
Republic of South Africa
tel: 27 12 394 3300
fax: 27 12 394 0169
e-mail: ctsa@comptrib.co.za

Referral of Complaint by Commission

Date: 14 February 2018

To: the Registrar of the Competition Tribunal, and:

(Name of respondent and [if applicable] other participants :)

A&B Movers CC

Concerning:

(Complaint name and Commission file number:)

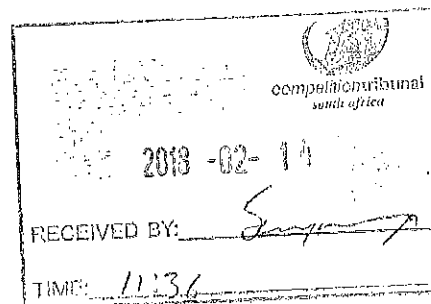
2017Mar0021

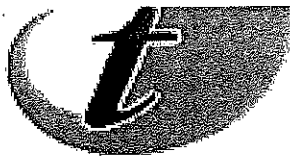
From: the Competition Commission

The Competition Commission alleges that the Respondent contravened the provisions of the Competition Act, section 4(1)(b)(i) by engaging in the following prohibited conduct:

(Concise statement of the alleged prohibited practice:)

Confirmation of the attached consent agreement between the Applicant and the Respondent, as an order of the Competition Tribunal in terms of section 49D, read with section 58(1)(a)(iii) and section 58(1)(b) of the Competition Act 1998 (Act 89 of 1998) as amended ("the Act") in respect of a contravention of section 4(1)(b)(i) of the Act.





competitiontribunal south africa

Form CT1(1) Page 2 About this Form

This form is issued in terms of section 50 of the Competition Act.

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If the answer raises only a point of law, it must set out the question of law to be resolved. Any other answer must be in affidavit form, setting out in numbered paragraphs:

- (a) a concise statement of the grounds on which the Complaint is opposed;
- (b) the material facts or points on which the respondent relies;
- (c) an admission or denial of each ground and of each material fact relevant to each ground set out in the Complaint Referral.

An allegation of fact set out in the Complaint Referral that is not specifically denied or admitted in an answer will be deemed to have been admitted.

Please see Competition Tribunal Rules 14 through 19.

Contacting the Tribunal

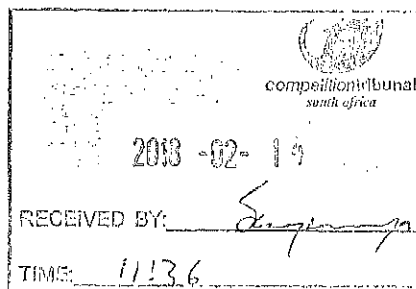
The Competition Tribunal
Private Bag X24
Sunnyside
0132
Republic of South Africa
tel: 27 012 3943300
fax: 27 012 3940169
e-mail: ctsa@comptrib.co.za

Referral of Complaint by Commission

The Competition Commission seeks an order granting the following relief:

(Concise statement of the order or relief sought:)

Confirmation of the attached consent agreement between the Applicant and the Respondent, as an order of the Competition Tribunal in terms of section 49D, read with section 58(1)(a)(iii) and section 58(1)(b) of the Competition Act 1998 (Act 89 of 1998) as amended ("the Act") in respect of a contravention of section 4 (1)(b)(i) of the Act.



☒ This referral is to proceed as a consent proceeding.

☐ This referral is to proceed as a contested proceeding. Attached is an affidavit setting out the grounds of this complaint, and a statement of the material facts and the points of law relevant to it, as required by Competition Tribunal Rule 15(2).

Name and Title of person authorised to sign on behalf of the Competition Commission:

Bukhosibakhe Majenge: Manager Legal Services Division

Authorised Signature:

IN THE COMPETITION TRIBUNAL OF SOUTH AFRICA

CT CASE NO: CO282Feb18
CC CASE NO: 2017MAR0021

In the matter between:

COMPETITION COMMISSION OF SA

Applicant

And

A&B MOVERS CC

 competition tribunal south africa	
2018-02-14	
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TIME:	<u>11:36</u>

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 A&B MOVERS CC, IN RESPECT OF A CONTRAVENTION OF SECTION 4(1)(b)(i) OF THE COMPETITION ACT 89 OF 1998

Preamble

The Competition Commission ("Commission") and A&B Movers CC, ("A&B Movers") 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

 MC

amended, in respect of a contravention of section 4(1)(b)(i) of the Act.

1. DEFINITIONS

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

- 1.1 "Act" means the Competition Act No. 89 of 1998, as amended;
- 1.2 "A&B Movers" means A&B Movers CC, a close corporation duly incorporated in accordance with the Company Laws of the Republic of South Africa with its principal place of business at 16 Garfield Road, Alrode;
- 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) in terms of section 24(1) of the Act;
- 1.5 "Consent Agreement" means this agreement duly signed and concluded between the Commission and A&B Movers.
- 1.6 "Parties" means the Commission and A&B Movers
- 1.7 "Respondents" means Northern Professional Movers Association of South Africa, Stuttaford Van Lines Gauteng Hub (Pty) Ltd ("Stuttaford"), Pickfords Removals SA (Pty) Ltd ("Pickfords"), A & B Movers (Pty) Ltd

("A&B Movers"), Brytons Removals (Pty) Ltd ("Brytons Removals"); Amazing Transport (Pty) Ltd ("Amazing Transport"), Key Moves CC ("Key Moves"), Bayley Worldwide CC ("Bayley Worldwide"), Selection Cartage (Pty) Ltd ("Selection Cartage"), Elliot Mobility (Pty) Ltd ("Elliot Mobility"), Crown Relocations (Pty) Ltd ("Crown Relocation") & Magna Thomson (Pty) Ltd ("Magna Thomson").

- 1.8 "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;

2. INVESTIGATION AND FINDINGS OF THE COMMISSION

- 2.1 On 08 February 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 fix the e-toll levy to be levied to customers that transport furniture using e-tolled Gauteng highways in contravention of section 4(1)(b)(i) of the Act.
- 2.2 The Commission's investigation under Case No. 2017Mar0021 revealed the following:

2.2.1 On 22 January 2014, Stuttaford, Pickfords, A & B Movers, Brytons Removals, Amazing Transport, Key Moves, Bayley

Worldwide, Selection Cartage, Elliot Mobility, Crown Relocations and Magna Thomson held a meeting under auspices of the NPPMA. The meeting was attended by the representatives of the Respondents.

2.2.2 In this meeting the respondents agreed to pass on to customers the additional costs that they incur when they transport goods along the Gauteng e-toll roads.

2.2.3 To archive this, the respondents agreed to impose a R350 levy to be charged on customers when they transport goods along the Gauteng e-toll roads.

2.2.4 This agreement amounts to price fixing in contravention of section 4(1)(b)(i) of the Act.

3. ADMISSION

3.1. A&B Movers admits that it has acted in contravention section 4(1)(b)(i) of the Act as described in paragraph 2 above.

4. CO-OPERATION

4.1 A&B Movers undertakes to provide the Commission with its full, timeous and expeditious cooperate in its prosecution of the remaining respondents in the

Commission's complaint referral. This cooperation includes, but not limited to:

- 4.1.1 Providing evidence and testifying at the hearing of the complaint referral in respect of the prohibited practice set out in this Consent Agreement.

5. ADMINISTRATIVE PENALTY

- 5.1. A&B Movers agrees that it is liable to pay an administrative penalty of R208 121.90 (Two-hundred and Eight Thousand One Hundred and Twenty-One Rand and Ninety cent). This amount does not exceed 10% of A&B Movers' annual turnover for the financial year ended February 2017.
- 5.2. A&B Movers agrees to pay the administrative penalty as stipulated in paragraph 5.1 above in 12 equal monthly instalments of R17 343.49 (Seventeen Thousand Three hundred and Forty-three Rand and Forty-Nine cent).
- 5.3. No interest will be levied upon the administrative penalty for the first year from the date on which this Consent Agreement is made an order of the Tribunal. Thereafter interest will be levied on the remaining outstanding balance at the prevailing interest rate on debts owing to the State as prescribed by the Minister of Finance in terms of section 80(1)(b) of the Public Finance Management Act, 1 of 1999 as amended. At the time of the signature of this Consent Agreement, the applicable interest rate is 10,5%.



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5.4. The payment shall be made into the Commission's bank account, details of which are as follows;

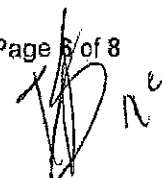
Bank name:	Absa Bank
Branch name:	Pretoria
Account holder:	Competition Commission Fees Account
Account number:	4087641778
Account type:	Current Account
Branch Code:	632005
Reference:	2017Mar0021/A&BMOVERS

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

6. AGREEMENT REGARDING FUTURE CONDUCT

6.1. A&B Movers undertakes to refrain from engaging in any anti-competitive conduct in contravention of the Act in future.

6.2. A&B Movers 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.

6.3. A&B Movers shall circulate a statement summarising the contents of this Consent Agreement to all management and operational staff employed by A&B Movers within 60 (sixty) business days from the date of confirmation of this Consent Agreement by the Tribunal.

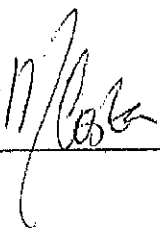
6.4. A&B Movers undertakes to submit a copy of such compliance programme to the Commission within 60 days of the date of confirmation of this Consent Agreement as an order to the Tribunal.

6.5. Undertakes henceforth to engage in competitive practices.

7. FULL AND FINAL SETTLEMENT

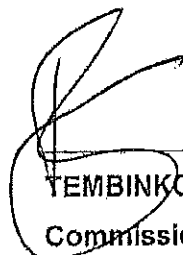
7.1. This Consent Agreement is entered into in full and final settlement of the Commission's investigation under Case No. 2017Mar0021 and upon confirmation as an order of the Tribunal, concludes all proceedings between the Commission and A&B Movers relating to the conduct that is the subject of the Commission's investigation under Case No. 2017Mar0021.

FOR A&B MOVERS:


_____

Dated and signed at Filbert on the 29 day of January 2018 ^{MC}

FOR THE COMMISSION:


TEMBINKOSI BONAKELE
Commissioner

Dated and signed at PRETORIA on the 8th day of February 18
2017.

IN THE COMPETITION TRIBUNAL OF SOUTH AFRICA

CT Case No: CO282Feb18

CC Case No: 2017Mar0021

In the matter between:

THE COMPETITION COMMISSION



APPLICANT

and

2018 -04- 03

RECEIVED BY: *[Signature]*

A&B MOVERS CC

TIME: 10:43

RESPONDENT

ADDENDUM TO THE CONSENT AGREEMENT CONCLUDED BETWEEN THE
COMPETITION COMMISSION AND A&B MOVERS CC

It is hereby recorded, by agreement between the parties, that the Consent Agreement concluded between the Competition Commission and A&B Movers CC signed on 08 February 2018, and presented for confirmation by the Competition Tribunal on 07 March 2018 be supplemented as recorded below.

1. Paragraphs 5.2 is amended as follows:

5.2 A&B Movers agrees to pay the administrative penalty as stipulated in paragraph 5.1 in 18 equal instalments of R11 562,32 (Eleven Thousand, Five hundred and sixty-two rands and thirty-two cents).

5.2.1 The first instalment of **R11 562,32** is payable on or before **30 April 2018**.

5.2.2 The seventeen (17) remaining instalments of **R11 562, 32** are payable on or before the following dates;

- | | |
|----------|-------------------|
| 5.2.2.1 | 31 May 2018 |
| 5.2.2.2 | 30 June 2018 |
| 5.2.2.3 | 31 July 2018 |
| 5.2.2.4 | 31 August 2018 |
| 5.2.2.5 | 30 September 2018 |
| 5.2.2.6 | 31 October 2018 |
| 5.2.2.7 | 31 November 2018 |
| 5.2.2.8 | 31 December 2018 |
| 5.2.2.9 | 31 January 2019 |
| 5.2.2.10 | 28 February 2019 |
| 5.2.2.11 | 31 March 2019 |
| 5.2.2.12 | 30 April 2019 |
| 5.2.2.13 | 31 May 2019 |
| 5.2.2.14 | 30 June 2019 |
| 5.2.2.15 | 31 July 2019 |
| 5.2.2.16 | 31 August 2019 |
| 5.2.2.17 | 30 September 2019 |



ME

2. 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 as defined in the Consent Agreement.

For A&B MOVERS



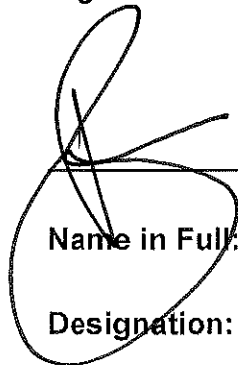
Signed and Dated at Alberts on the 19 day of March 2018.

Name in Full: Maria Lisete Costa

Designation: Owner

For the Competition Commission

Signed and Dated at PRETORIA on the 29 day of MARCH 2018.



Name in Full: **TEMBINKOSI BONAKELE**

Designation: **COMMISSIONER OF THE COMPETITION COMMISSION**