



competitiontribunal
SOUTH AFRICA

**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case No: CO122Sep20

In the matter between:

The Competition Commission

Applicant

And

Eagle Fire Control CC

Respondent

Panel : AW Wessels (Presiding Member)
: E Daniels (Tribunal Member)
: Y Carrim (Tribunal Member)

Additional submission
received on : 29 September 2020

Heard on : 30 September 2020

Decided on : 30 September 2020

CONSENT AGREEMENT

The Tribunal hereby confirms the consent agreement between the Competition Commission and Eagle Fire Control CC annexed hereto.

**Presiding Member
Mr Andreas Wessels**

**Date
30 September 2020**

Concurring: Mr Enver Daniels and Ms Yasmin Carrim

IN THE COMPETITION TRIBUNAL OF SOUTH AFRICA

(HELD IN PRETORIA)

CT CASE NO

CC CASE NO: 2018MAR0047

In the matter between

THE COMPETITION COMMISSION

Applicant

And

EAGLE FIRE CONTROL CC

Respondent

FILING SHEET

BE PLEASED TO TAKE NOTICE that the applicant hereby files the settlement agreement concluded between the Competition Commission and Eagle Fire Control CC which includes the following documents:

1. Form CT1
2. Consent Agreement

Signed at ___Pretoria_____ on the __18th__day of September 2020

Competition Commission

The Dti Campus, Building C, Mulayo

77 Meintjies Street

Tel: 012 762 6975

Email: KelebogileMo@compcom.co.za

Ref: Kelebogile Modingoana/2018MAR0047

TO:

THE REGISTRAR

Competition Tribunal of South Africa

The Dti Campus, 77 Meintjies Street,

1st Floor, Block C, Mulayo Building

Sunnyside, Pretoria

Tel: 012 394 3300/55

Fax: 012 394 0169

E-mail: Tebogom@comptrib.co.za

AND TO:

Eagle Fire Control CC

18-20 Cypress Ave,

Stamford Hill

Durban, 4001

Ref: Mr Grant Allen

Tel: 031 312 9284

Fax: 031 312 9201

By Email: Grant@eaglefire.co.za



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: _____

To: **the Registrar of the Competition Tribunal, and:**

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

Concerning:

(Complaint name and Commission file number:)

From: **the Competition Commission**

The Competition Commission alleges that the Respondent contravened the provisions of the Competition Act, section _____ by engaging in the following prohibited conduct:

(Concise statement of the alleged prohibited practice:)



Form CT1(1)
Page 2
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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)(iii) 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: Chief Legal Counsel

Authorised Signature:

IN THE COMPETITION TRIBUNAL OF SOUTH AFRICA

CT CASE NO:

CC CASE NO: 2018MAR0047

In the matter between:

COMPETITION COMMISSION OF SA

Applicant

And

EAGLE FIRE CONTROL CC

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 EAGLE FIRE CONTROL 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 Eagle Fire Control CC ("Eagle Fire") 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

- 1.1 **“Act”** means the Competition Act No. 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 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 Competition Commission (the Commissioner) in terms of section 24(1) of the Act;
- 1.4 **“Eagle Fire”** means Eagle Fire Control CC, a close corporation duly registered in accordance with the laws of the Republic of South Africa with its principal place of business situated at 20 Cypress Avenue, Durban.
- 1.5 **“Fire Unlimited”** means Ramsin Industrial Supplies CC t/a Fire Unlimited, a close corporation duly registered in accordance with the laws of the Republic of South Africa, with its principal place of business situated at 11 Balance Road, Off Umgeni.
- 1.6 **“Investigation”** means the investigation initiated on 26 March 2018, being investigated under case number 2018MAR0047 and which is the subject of this consent agreement.

- 1.7 **“ASIB Investigation”** means the investigation initiated on 05 July 2017, being investigated under case number 2017Jul003.
- 1.8 **“Respondents”** means Ramsin Industrial Supplies CC and Eagle Fire Control CC, being Respondents in the investigation.
- 1.9 **“Consent Agreement”** means this agreement duly signed and concluded between the Commission and Eagle Fire.
- 1.10 **“Parties”** means the Commission and Eagle Fire.
- 1.11 **“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. THE COMMISSION’S INVESTIGATION AND FINDINGS

- 2.1 On 05 July 2017, the Commissioner initiated a complaint in terms of section 49B of the Act against Automatic Sprinkler Inspection Bureau (“ASIB”) and all sprinkler installers registered with ASIB. This complaint is being investigated under case number 2017Jul0013.
- 2.2 During the ASIB investigation, the investigating team found information which indicated that Eagle Fire Control CC (“Eagle Fire”) and Fire Unlimited may have entered into an agreement to collude when submitting bids to their clients.

2.3 Given this information, on 26 March 2018, the Commissioner initiated a complaint against Eagle Fire and Fire Unlimited for possible collusive tendering. The complaint is investigated under case number 2018MAR0047.

2.4 The allegations are that Eagle Fire and Fire Unlimited may have entered into an agreement and/or engaged in concerted practice to collude when bidding for tenders for the supply of automatic fire sprinklers in contravention of section 4(1)(b)(iii) of the Act.

2.5 The Investigation revealed the following:

2.5.1 On 23 January 2016, Fire Unlimited provided Eagle Fire with a cover quote for the Supply & Installation of Fire Equipment at Old Mutual properties.

2.5.2 Further, on 24 March 2016, Fire Unlimited provided Eagle fire with a cover quote for the replacement of sprinkler heads at Tiger Brand buildings.

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

3. ADMISSION

3.1. Eagle Fire admits that it has acted in contravention of section 4(1)(b)(iii) of the Act as described in paragraph 2.5 above.

4. AGREEMENT REGARDING FUTURE CONDUCT

4.1. Eagle Fire undertakes to refrain from engaging in any anti-competitive conduct in contravention of the Act in future.

4.2. Eagle Fire will develop, implement and monitor a competition law compliance programme as part of its corporate governance policy, which is designed to ensure that all employees, members and management do not engage in future contraventions of the Act. Such compliance programme will include mechanisms for the identification, prevention, detection and monitoring and detection of any contraventions of the Act.

4.3. Eagle Fire shall circulate a statement summarising the contents of this Consent Agreement to all management and operational staff employed by Eagle Fire within 60 (sixty) business days from the date of confirmation of this Consent Agreement by the Tribunal.

4.4. Eagle Fire 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.

4.5. Eagle Fire hereby commits itself to competitive practices.

5. ADMINISTRATIVE PENALTY

5.1. Eagle Fire agrees that it is liable to pay an administrative penalty of R120 000 **(One Hundred and Twenty Thousand Rands)**. This amount does not exceed 10% of its annual turnover for the financial year ended in February 2016.

5.2. Eagle Fire agrees to pay the administrative penalty as stipulated in the above paragraph within 30 days from the date of confirmation of this Consent Agreement by the Tribunal.

5.3. The payment shall be made into the Commission's bank account, details 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:	2018MAR0047EAGLE FIRE

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

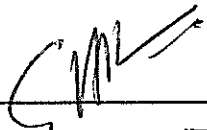
6. MONITORING

6.1. All reports in relation to conditions set out in this agreement, including but not limited to Compliance programmes, Proof of payment(s) etc. shall be submitted to the Commission at CartelSettlements@compcom.co.za.

7. FULL AND FINAL SETTLEMENT

7.1. This Consent Agreement is entered into in full and final settlement of the Commission's investigations defined in the definitions clause and upon confirmation as an order of the Tribunal, concludes all proceedings between the Commission and Eagle Fire relating to the conduct that is the subject of the Commission's investigations defined in the definitions clause.

For Eagle Fire Control CC



Signed and Dated at DURBAN on the 3 day of SEPTEMBER 2020.

Name in Full:

Designation: MEMBER

For the Competition Commission

Signed and Dated at PRETORIA on the 18TH day of SEPTEMBER 2020.



Name in Full: TEMBINKOSI BONAKELE

Designation: COMMISSIONER OF THE COMPETITION COMMISSION