

**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case No: CR110Aug15/SA003Apr10

In the matter between:

The Competition Commission

Applicant

and

Majorshelf 35 (Pty) Ltd

Respondent

Panel	:	E Daniels (Presiding Member) M Mazwai (Tribunal Member) Prof. F Tregenna (Tribunal Member)
Heard on	:	15 May 2019
Addendum filed on	:	26 August 2020
Decided on	:	20 October 2020

Settlement Agreement and Addendum

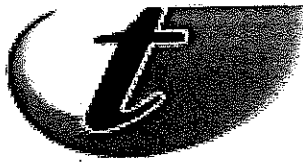
1. On 15 May 2019, the Competition Tribunal ("Tribunal") heard the Settlement Agreement as agreed to and proposed by the Competition Commission and Majorshelf 35 (Pty) Ltd ("Majorshelf").
2. On 26 August 2020, the parties filed an addendum to the Settlement Agreement that amends the agreed payment dates and provides for new instalment dates by which Majorshelf must pay its administrative penalty.
3. The Tribunal hereby confirms the Settlement Agreement and the addendum as agreed to and proposed by the Competition Commission and Majorshelf. The confirmed Settlement Agreement and addendum are annexed hereto.

**Presiding Member
Mr Enver Daniels**

**20 October 2020
Date**

Concurring: Ms Mondo Mazwai and Prof. Fiona Tregenna

CR110Aug15/SA003Apr19



competition tribunal 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 5300
fax: 27 12 394 0169
e-mail: ctsa@comptrib.co.za

Referral of Complaint by Commission

Date: 04 April 2019

To: the Registrar of the Competition Tribunal, and:

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

Majorshelf 35 (Pty) Ltd.

Concerning:

(Complaint name and Commission file number:)

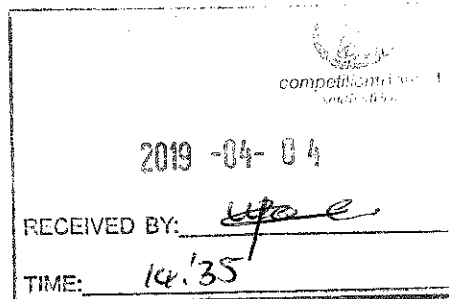
2010Nov5447/2011Jun0069

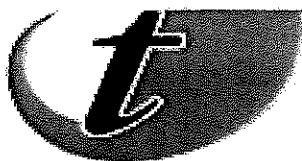
From: the Competition Commission

The Competition Commission alleges that the Respondent contravened the provisions of the Competition Act, section 4(1)(b) 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 contraventions of section 4(1)(b)(i) and (iii) of the Act.





competition tribunal south africa

Form CT1(1) Page 2 About this Form

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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.

Contacting the Tribunal

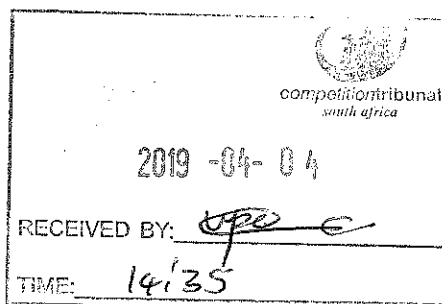
The Competition Tribunal
Private Bag X24
Sunnyside
0132
Republic of South Africa
tel: 27 012 3943300
fax: 27 012 3940169
e-mail: ctsa@comptrib.co.za

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) and (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:

Mr Bukhosibakhe Majenge: Chief Legal Counsel

Authorised Signature:

[Signature]

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

CT CASE NO: CR110Aug15/SA003Apr19

CC CASE NO: 2010Nov544 and 2011Jun0069

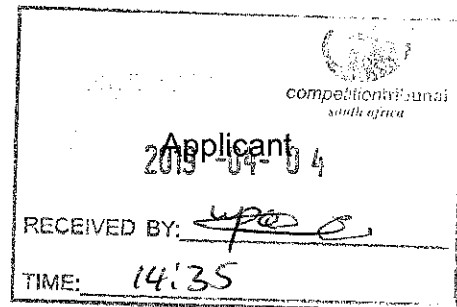
In the matter between:

THE COMPETITION COMMISSION

And

MAJORSHELF 35 (PTY) LTD

Respondent

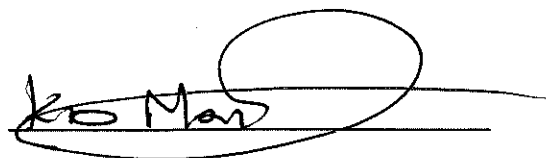


FILING NOTICE

BE PLEASED TO TAKE NOTICE that the Applicant hereby files the following document:

1. Consent agreement concluded between the Competition Commission and Majorshelf (Pty) Ltd.

DATED AT PRETORIA ON THIS 4th DAY OF APRIL 2019.



COMPETITION COMMISSION

Building C, DTI Campus

77 Meintjies Street

Sunnyside

Pretoria

Tel: (012) 762 6971 / (012) 762 6938

Ref: K Monareng / R Maumela

E-mail: katlegom@compcom.co.za /

rudzanim@compcom.co.za

TO: THE REGISTRAR

Competition Tribunal, 1st Floor, Mulayo

The DTI Campus, 77 Meintjies Street

Sunnyside

Pretoria

Tel: (012) 394 3300/55

Fax: (012) 394 0169

E-mail: Sibongilem@comptrib.co.za

AND TO: MAJORSHELF 35 (PTY) LTD

Respondent

Plot 148

Potchefstroom

North West

Tel: (081) 290 6755

Ref: Hannes Badenhorst

E-mail: Majorshelf@lantic.net

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

CT CASE NO: CR110AUG15/SA003Apr19
CC CASE NO: 2010NOV5447 & 2011JUN0069

In the matter between:

THE COMPETITION COMMISSION

And

MAJORSHELF 35 (PTY) Ltd

Applicant

2019-04-04

RECEIVED BY: *[Signature]*

TIME: 14:35

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 MAJORSHELF 35 (PTY) LTD, IN RESPECT OF A CONTRAVENTION OF SECTION 4(1)(b)(i) &(iii) OF THE COMPETITION ACT 89 OF 1998.

Preamble

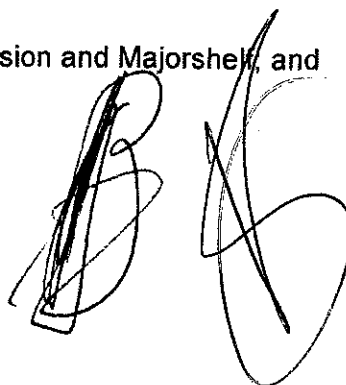
The Commission and Majorshelf hereby agree that application be made to the Competition Tribunal for the confirmation of this Consent Agreement as an order of the Tribunal in terms of section 49D read with section 58(1)(a)(iii) and 58(1)(b) of the Act, in respect of contraventions of section 4(1)(b)(i) and (iii) of the Act, on the terms set out below.

[Signature] *[Signature]*

1. Definitions

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

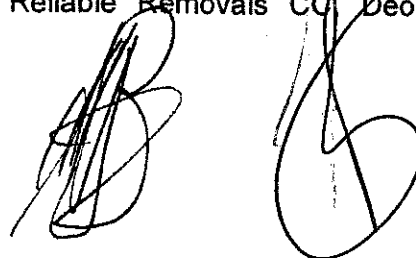
- 1.1. "Act" means the Competition Act, No. 89 of 1998, as amended;
- 1.2. "Commission" means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Act, with its principal place of business at Mulayo Building (Block C), the DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng;
- 1.3. "Commissioner" means the Commissioner of the Commission, appointed in terms of section 22 of the Act;
- 1.4. "Complaint" means the complaint initiated by the Commissioner in terms of section 49B(1) of the Act under case numbers 2010Nov5447 and 2011Jun0069 and 2013Jun0275;
- 1.5. "Consent Agreement" means this agreement duly signed and concluded between the Commission and Majorshelf;
- 1.6. "Cover Price" means generally, a price that is provided by a firm that wishes to win a tender to a firm that does not wish to do so, in order that the firm that does not wish to win the tender may submit a higher price, or alternatively a price that is provided by a firm that does not wish to win a tender in order that the firm that wishes to win the tender may submit a lower price;
- 1.7. "Majorshelf" means a company duly incorporated as such in accordance with the applicable laws of the Republic of South Africa, with its principal place of business at Plot 148, Potchefstroom, North West;
- 1.8. "Parties" means the Commission and Majorshelf, and



- 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 Mulayo Building (Block C), the DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng.

2. BACKGROUND TO THE COMMISSION'S INVESTIGATION AND FINDINGS

- 2.1. On 3 November 2010, the Commission initiated a complaint in terms of section 49(B)(1) of the Act into alleged prohibited practices relating to collusive tendering in the market for the provision of furniture removal services in South Africa against J.H Retief Transport, Patrick Removals (Pty) Ltd, Cape Express Removals (Pty) Ltd, Sifikile Transport CC, Gloway Transport CC, De Wet Human CC t/a Viking Furniture, Stuttaford Van Lines (Pty) Ltd and Pro-Pack Removals.
- 2.2. On 1 June 2011, the Commission amended its complaint initiation to include other furniture removal firms as respondents in the complaint on the basis of further information obtained in the investigation of the complaint. These firms are A&B Movers CC, Advance Transport (Pty) Ltd, African Palletized Storage, Afriworld Furniture Removals CC, Core Relocations (Pty) Ltd, Crown Relocations (Pty) Ltd, De Lange Transport (Pty) Ltd, Elliot International CC, Execu-Move CC, Joel Transport (Pty) Ltd, Langs Furniture Removals, Lowe Lines CC, Majorshelf, Matthee Removals, North Western Transport CC, Pickfords Removals (Pty) Ltd, Pulse International Removals, Stanley's Removals CC, Transfreight International CC, Western Transport Services CC, JNK Transport Services, Trapezium Removals, Elite International, City to City Transport, Wiets Removals, H&M Removals, AGS, and all present members of the Professional Movers Association.
- 2.3. On 13 June 2013, the Commission further amended its complaint to include other furniture removal firms as respondents in the complaint on the basis of further information obtained in the investigation of the complaint. These firms are Easy Moves CC, Reliable Removals CC, Deon Nel Sole



Proprietorship t/a AD Transport, Bear Transport (Pty) Ltd, J&H Removals (Pty) Ltd, Mini Maxi Movers CC, Baxter International Movers CC, Louis du Preez Sole Proprietorship t/a Removals 4 Less, A to Z Relocations Services t/a The Moving Company and AKA Loading and Transport CC.

2.4. The firms listed in paragraph 2.1, 2.2 and 2.3 above shall hereinafter be referred to as the Respondents.

2.5. The Commission's investigation revealed the following:

2.5.1. During or about 2007 to 2012, Majorshelf colluded with JH Retief and Cape Express on tenders issued by their customers in respect of furniture removal services.

2.5.2. Majorshelf and JH Retief requested and provided cover prices to each other in respect of forty-one (41) tenders for furniture removal services. These cover prices arrangements affected organs of state and private institutions, including, the Department of Health, Department of Education, the South African National Defence Force, Crocodile Mine Brits .

2.5.3. Majorshelf and Cape Express requested and provided cover prices to each other in respect of six (6) tenders for furniture removal service issued by SANDF.

2.6. This conduct constitutes collusive tendering which contravenes section 4(1)(b)(i) and (iii) of the Act.

3. ADMISSION

Majorshelf admits that it engaged in forty-seven (47) instances of cover pricing in contravention of section 4(1)(b)(i) and (iii) of the Act.



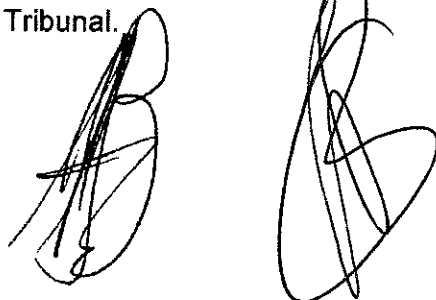
4. FUTURE CONDUCT

Majorshelf agrees to:

- 4.1. prepare and circulate a statement summarizing the contents of this Consent Agreement to its employees, managers and directors within fourteen (14) days of the date of confirmation of this Consent Agreement as an order of the Tribunal;
- 4.2. refrain from engaging in conduct in contravention of section 4 (1)(b) of the Act in future;
- 4.3. develop, implement and monitor a 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;
- 4.4. 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; and
- 4.5. undertakes henceforth to engage in competitive practices.

5. ADMINISTRATIVE PENALTY

- 5.1. Majorshelf agrees and undertakes to pay an administrative penalty in the amount of R18 144. This amount does not exceed 10% of Majorshelf's annual turnover for the financial year ended February 2018.
- 5.2. Majorshelf shall pay the amount set out in paragraph 5.1 above to the Commission within ninety (90) days of the confirmation of this Consent Agreement as an order of the Tribunal.



- 5.3. The administrative penalty must be paid into the Commission's bank account which is as follows:

Name: The Competition Commission Fees Account

Bank: Absa Bank, Pretoria

Account Number: 4087641778

Branch Code: 632005

Ref: 2011Jun0069/ Majorshelf

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

6. COMPLIANCE

- 6.1. All compliance reports and proof of payments relating to this matter shall be forwarded to the Commission at CartelSettlements@compcom.co.za.



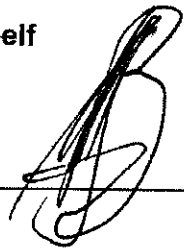
7. FULL AND FINAL SETTLEMENT

This consent agreement is entered into in full and final settlement of the Commission's investigation under Case No. 2010Nov5447, 2011Jun0069 and 2013Jun0275 and upon confirmation as an order of the Tribunal concludes all proceedings between the Commission and Majorshelf.

Dated and signed at Potchefstroom on the 27 of May: 2019

For Majorshelf

Signature



Name in Full:

Casparus Johannes

Capacity:

M.D

Dated and signed at TSHWANE on the ___ of ___ 2019

For the Commission



Tembinkosi Bonakele

Competition Commissioner

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

CT Case No: CR110Aug15

CC Case No: 2010Nov5447 and 2011Jun0069

In the matter between:

THE COMPETITION COMMISSION

Applicant

And


MAJORSHELF 35 (PTY) LTD

Respondent

SECOND ADDENDUM TO THE CONSENT AGREEMENT CONCLUDED 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, BETWEEN THE COMPETITION COMMISSION AND MAJORSHELF 35 (PTY) LTD, IN RESPECT OF CONTRAVENTIONS OF SECTION 4(1)(b) (i) AND (iii) OF THE COMPETITION ACT, 1998.

This amendment to the consent agreement, which was concluded between the Competition Commission and Majorshelf 35 (Pty) Ltd ("Majorshelf") signed on 27 March 2019 by Majorshelf and presented for confirmation by the Competition Tribunal on 15 May 2019, sets out the terms on which the parties to the consent agreement have agreed to amend the consent agreement.:

The Commission and Majorshelf concluded the first addendum to the Consent Agreement in terms of which the payment terms in the Consent Agreement were revised. Majorshelf



and the Commission hereby conclude this second addendum as follows:

Clause 5.2 of the consent agreement is deleted and replaced with the following clause:

5.2 Majorshelf shall pay the amount set out in paragraph 5.1 above to the Commission within 12 months of the confirmation of this Consent Agreement as an order of the Tribunal. Majorshelf is to pay the penalty in four (4) equal quarterly instalments as follows:

5.2.1. the first instalment in the amount of R4 536 shall be payable by not later than 28 February 2021;

5.2.2. the second instalment in the amount of R4 536 shall be paid by not later than 31 May 2021;

5.2.3. the third instalment in the amount of R4 536 shall be paid by not later than 31 August 2021; and

5.2.4. the last instalment in the amount of R4 536 shall be paid by not later than 30 November 2021.

Majorshelf may (in its sole discretion) choose to settle its administrative penalty over a shorter period of time.

Insertion of new clauses and follows:

5.5 Majorshelf and the Commission reached an agreement to allow Majorshelf an indulgence of a 6 (six) months payment holiday until February 2021 due to the financial hardship suffered from the continued lockdown and Covid-19 pandemic. Majorshelf submits that the effect of the lockdown due to the Covid-19 pandemic has resulted in no production for the company and thus no income.

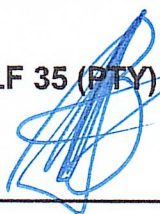
5.6 Majorshelf submits that a payment holiday for a period of six months will assist it to manage its cashflow, develop and implement a post Covid-19 recovery plan.



5.7 The Commission will review the terms of payment after the six months holiday period.


Dated and signed at Pretoria on the 24 day of August 2020

For MAJORSHELF 35 (PTY) LTD


Name in Full: Casperus Johannes Badenhorst

Dated and signed at PRETORIA on the 25TH day of AUGUST 2020

For the Commission


Tembinkosi Bonakele
Competition Commissioner