

**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case No: CO025May19

In the matter between:

The Competition Commission

Applicant

and

Quintax 31 CC t/a Quintax

Respondent

Panel : AW Wessels (Presiding Member)
Prof. F Tregenna (Tribunal Member)
M Mokuena (Tribunal Member)

Heard on : 22 May 2019
Further submissions on : 29 October 2019 and 24 February 2020
Decided on : 07 July 2020

Consent Agreement

The Tribunal hereby confirms the Consent Agreement as agreed to and proposed by the Competition Commission and Quintax 31 CC t/a Quintax annexed hereto.

**Presiding Member
Mr A W Wessels**

**7 July 2020
Date**

Concurring: Prof. Fiona Tregenna and Mrs Medi Mokuena

IN THE COMPETITION TRIBUNAL OF SOUTH AFRICA

(HELD IN PRETORIA)

CT CASE NO: *CO025 May 19*

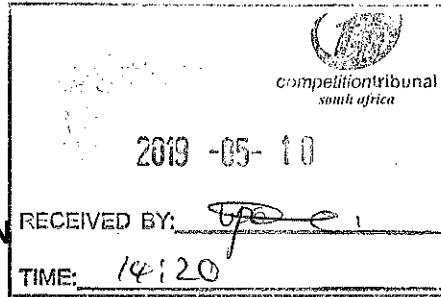
CC CASE NO: 2018JAN0036

In the matter between

THE COMPETITION COMMISSION

And

QUINTAX 31 CC t/a QUINTAX



Applicant

Respondent

FILING SHEET

BE PLEASED TO TAKE NOTICE that the applicant hereby files the settlement agreement concluded between the Competition Commission and Quintax 31 CC t/a Quintax Cleaning Services.

Signed at PRETORIA on the 10TH day of May 2019



Competition Commission

The Dti Campus, Building C, Mulayo

77 Meintjies Street

Tel: 012 762 6975

Email: MaandaL@compcom.co.za

Ref: **Maanda Lambani/2018Jan0036**

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:

Quintax 31 CC t/a Quintax Cleaning Services

Unit 2 Lubex House

4 Ivy Road

Pinetown

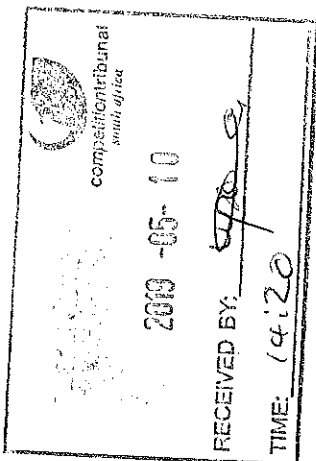
KwaZulu-Natal Province

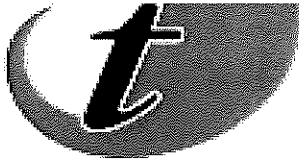
Ref: Mr John Chisholm

Tel: 031 705 2182

Fax: 086 647 0637

By Email: john@quintaxcleaning.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 concise statement of the grounds on which the Complaint is opposed;
- the material facts or points on which the respondent relies;
- 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: 10 May 2019

To: the Registrar of the Competition Tribunal, and:

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

Quintax 31 CC t/a Quintax Cleaning Services

Concerning:

(Complaint name and Commission file number:)

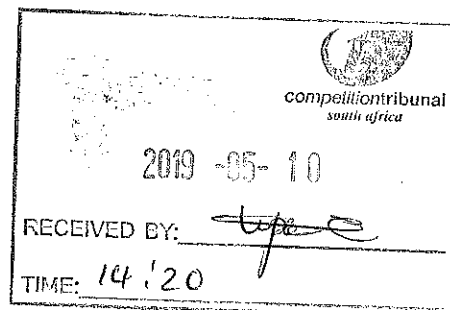
SASSA v Quintax and Greensweep: 2018Jan0036

From: the Competition Commission

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





competitiontribunal south africa

Form CT1(1) Page 2 About this Form

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Contacting the Tribunal

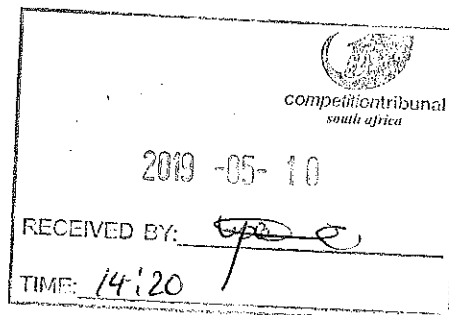
The Competition Tribunal
Private Bag X24
Sunnyside
0132
Republic of South Africa
tel: 27 012 3943300
fax: 27 012 3940169
e-mail: ctsa@comptrib.co.za

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
(HELD IN PRETORIA)

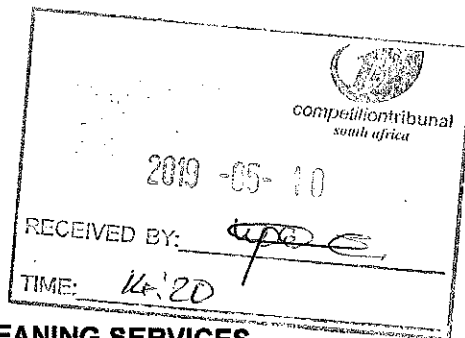
CT Case No: C0025 May 19
CC Case No: 2018JAN0036

In the matter between:

THE COMPETITION COMMISSION

And

QUINTAX 31 CC T/A QUINTAX CLEANING SERVICES



Applicant

Respondent

CONSENT AGREEMENT BETWEEN THE COMPETITION COMMISSION AND
QUINTAX 31 CC T/A QUINTAX CLEANING SERVICES IN REGARD TO ALLEGED
CONTRAVENTION OF SECTION 4(1)(b)(iii) OF THE COMPETITION ACT, 89 OF 1998,
AS AMENDED.

PREAMBLE

The *Commission* and Quintax 31 CC T/A Quintax Cleaning Services hereby agree that application be made to the 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 Competition Act, No. 89 of 1998, as amended, in respect of contravention of section 4(1)(b)(iii) of the Act, 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, 1998 (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 Competition Commission, appointed in terms of section 22 of the Act;
- 1.4 **"Complaint"** means the complaint submitted by the South Africa Social Security Agency with the Commission in terms of section 49B(2) of the Act under case number 2018Jan0036;
- 1.5 **"Consent Agreement"** means this agreement duly signed and concluded between the Commission and Quintax;
- 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 that tender may submit a higher price; or alternatively a price that is provided by a firm that does not wish to win a tender to a firm that does wish to win that tender, in order that the firm that wishes to win the tender may submit a lower price;



- 1.7 **"Greensweep"** means Greensweep Consortium (Pty) Ltd a private company duly registered and incorporated in accordance with the laws of the Republic of South Africa, with its principal place of business situated at Unit 3, Adlo Park, 40 1st Street, Mafikeng, North West;
- 1.8 **"Parties"** means the Commission and Quintax;
- 1.9 **"Quintax"** means Quintax 31 CC T/A Quintax Cleaning Services, a close corporation duly registered and incorporated in accordance with the laws of the Republic of South Africa, with its principal place of business situated at Unit 2, Lubex House, 4 Ivy Road, Pinetown, KwaZulu-Natal;
- 1.10 **"SASSA"** means the South African Social Security Agency, a statutory body established in terms of section 2 of the South African Social Security Agency Act No. 9 of 2004, with its principal place of business at 501 Prodinsa Building, Corner Steve Biko and Pretorius Streets, Pretoria, Gauteng; and
- 1.11 **"Tender"** means the tender number SASSANW 14/16CS/NW, advertised by SASSA on 29 July 2016, for the provision of cleaning, sanitation, gardening, and car wash services to SASSA in the North West Province.
- 1.12 **"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. COMMISSION'S INVESTIGATION AND FINDINGS

2.1 On 30 January 2018, SASSA submitted the Complaint in terms of section 49(B)(2) of the Act, whereby it was alleged that Greensweep and Quintax, collectively referred to as ("the Respondents"), being competitors in a horizontal relationship, entered into an agreement to fix prices and tender collusively when responding to the Tender in contravention of section 4(1)(b)(i) and (iii) of the Act.

2.2 The Commission investigated this Complaint under Case Number 2018Jan0036. Upon the completion of its investigation, the Commission found the following:

2.2.1 Between 29 July 2016 and 09 September 2016, Quintax reached an agreement with Greensweep in that they agreed on a Cover Price when responding to the Tender;

2.2.2 In terms of the agreement, Quintax provided a Cover Price to Greensweep in order for Greensweep to submit a non-competitive bid;

2.2.3 In line with the agreement, Greensweep submitted a higher bid to enable Quintax to win the Tender. The Tender was awarded to Quintax;

2.2.4 It was further agreed that the contingency plans for both Respondents would be the same. The contingency plans were then prepared by the same person; and

2.2.5 The Commission submits that this conduct contravenes section 4(1)(b)(iii) of the Act.

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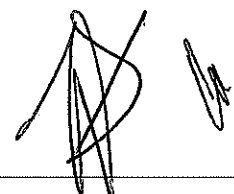
3. ADMISSION

- 3.1 Quintax admits that its conduct in respect of the Tender as set out in clause 2 above, amounts to a contravenes section 4(1)(b)(iii) of the Act.

4. FUTURE CONDUCT

- 4.1 Quintax agrees and undertakes to:

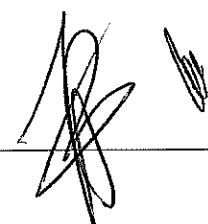
- 4.1.1 prepare and circulate a statement summarising the contents of this Consent Agreement to its employees, managers and directors within 14 (fourteen) days of the date of confirmation of this Consent Agreement as an order of the Tribunal;
- 4.1.2 refrain from engaging in conduct in contravention of section 4(1)(b) of the Act in the future;
- 4.1.3 to implement and monitor a competition law compliance programme. Such programme shall incorporate corporate governance designed to ensure the employees, management, directors and agents do not engage in future contraventions of the Act. In particular, such compliance programme will include mechanisms for the monitoring and detection of any contraventions of the Act; and
- 4.1.4 with regard the competition law compliance programme referred to above, Quintax undertakes to submit to the Commission a copy thereof within 90 days of confirmation of the Settlement Agreement as an Order of the Tribunal.

Handwritten signature and initials in black ink, located at the bottom right of the page.

5. ADMINISTRATIVE PENALTY

- 5.1 Quintax agrees that it is liable to pay an administrative penalty in the sum of **R250 305.27 (Two Hundred and Fifty Thousand, Three Hundred and Five Rands and Twenty-Seven Cents)**). This amount represents 2.32% of Quintax's turnover in the Republic of South Africa for the financial year ended 28 February 2018.
- 5.2 Quintax shall pay an amount of **R100 305.27 (One Hundred Thousand, Three Hundred Rands and Twenty-Seven Cents)** to the Commission within 30 (thirty) days from the date of confirmation of this Consent Agreement as an order of the Tribunal. Thereafter, the remaining **R150 000.00 (Hundred and Fifty Thousand Rands)** will be paid over two (2) months period in two (2) equal instalments as follows.
- 5.3 The First instalment of **R75 000.00 (Seventy-Five Thousand Rands)** on or before 30 June 2019.
- 5.4 The second instalment of **R75 000.00 (Seventy-Five Thousand Rands)** on or before 31 July 2019.
- 5.5 The payments shall be paid 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
Ref : 2018Jan0036/Quintax

5.6 The Commission will pay this sum to the National Revenue Fund in terms of 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 agreement is entered into in full and final settlement of the Commission's investigation against Quintax, and upon confirmation as an order of the Tribunal, concludes all proceedings under Case No.2018Jan0036.

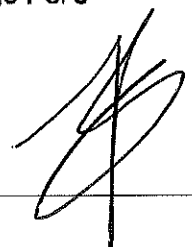
Dated and signed at PINETOWN on the 25th day of APRIL 2019

For Quintax




Name in Full: JOHN CHISHOLM

Position: CEO



Dated and Signed at ISHWANE on the 6th day of MAY 2019

For the Commission



Tembinkosi Bonakele
Competition Commissioner

