IN THE PROCEEDINGS BEFORE THE ENFORCEMENT COMMITTEE OF THE FINANCIAL SERVICES BOARD

CASE NO: **1/2012**

In the matter of:

FINANCIAL SERVICES BOARD	First Applicant/Referring Party
THE DIRECTORATE OF MARKET ABUSE	Second Applicant/Referring Party
and	
MAHOMED ZUBEIR MOOSA	Respondent

ORDER

WITH DUE CONSIDERATION to the settlement agreement (attached marked annexure "A") in terms of section 103(1) of the Securities Services Act, No 36 of 2004, and 6B(7)(a) of the Financial Institutions (Protection of Funds) Act, No. 28 of 2001, I hereby determine that the Respondent contravened section 75 of the Securities Services Act, No 36 of 2004, and impose a penalty of R4 million to be paid on or before 31 January 2012. The remaining terms and conditions of the settlement agreement are incorporated and made an order of the Enforcement Committee.

Signed at Pretoria on the 12 day of January 2012.

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C F Eloff
Chairperson of the Enforcement Committee

Annexure A

MEMORANDUM OF AGREEMENT

Entered into between:

THE DIRECTORATE OF MARKET ABUSE
(Hereinafter referred to as the "DMA")

and

THE FINANCIAL SERVICES BOARD
(Hereinafter referred to as the "FSB)

and

MAHOMED ZUBEIR MOOSA
Id no. 681219 5003 084
(Hereinafter referred to as "Mr Moosa")

WHEREAS Sunflower Future Contracts are listed on the South African Futures Exchange (Pty) Ltd, which is a regulated market which is subject to the provisions of the Securities Services Act, No 36 of 2004 (The Act);

AND WHEREAS

1. The DMA found on 28 September 2010 that Mr Moosa contravened section 75(1) of the Act on 39 occasions during the period from 14 July 2008 to 10 March 2009 when he traded in Sunflower Futures Contracts.

2. The DMA directed that the matter should be referred to the Enforcement Committee for the imposition of an administrative penalty; and

3. The DMA is of the view that a penalty in the amount of R4 million would be a fair penalty under *inter alia* the following circumstances:

    a) Mr Moosa contravened Section 75 of the Act on 39 occasions during an eight month period;

    b) All the transactions reduced the price of the Sunflower Future Contracts and created an artificial price;

    c) This artificial lower price could have caused financial losses to other Sunflower Futures and Options market participants and persons who trade in physical Sunflower seed;

d) Mr Moosa has admitted to contravening the Act and has shown remorse;

e) Mr Moosa co-operated with the DMA and has made concerted efforts to settle the matter;

f) No suspicious transactions by Mr Moosa have been identified since Mr Moosa was advised that his conduct was being investigated during March 2009;

g) Mr Moosa is a first time offender.

AND WHEREAS

Mr Moosa is prepared to settle the matter on a basis that is acceptable to the DMA.

NOW THEREFORE the parties agree as follows:

1. Mr Moosa admits that he contravened Section 75(1) of the Act during the following instances when he traded in Sunflower Future Contracts:

Transaction Date	Expiry date	Number of Contracts	Buy account	Sell account	Price
14/7/08	MAR09	1	CWN94	UNX192	5520
14/7/08	MAY09	1	CWN94	UNX192	5153
15/7/08	MAR09	1	UNX192	CWN94	5460
15/7/08	MAY09	1	UNX192	CWN94	5172
25/9/08	OCT08	1	UNX192	OAB322	4164
25/9/08	MAY09	1	UNX192	OAB322	3995
25/9/08	MAR09	1	UNX192	OAB322	4225
1/10/08	OCT08	2	UNX192	OAB322	3955
1/10/08	DEC08	2	UNX192	OAB322	4082
1/10/08	MAR09	1	UNX192	OAB322	4132
3/11/08	DEC08	2	UNX192	OAB322	4076
7/11/08	MAY09	1	OAB322	UNX192	3660
13/11/08	DEC08	5	OAB322	UNX192	4120
13/11/08	MAY09	1	UNX192	OAB322	3755
18/11/08	MAR09	1	LCX502	UNX192	3970
18/11/08	MAY09	1	UNX192	LCX502	3760
18/11/08	MAY09	1	UNX192	LCX502	3736
24/11/08	DEC08	2	LCX502	UNX192	4066
24/11/08	MAR09	1	LCX502	UNX192	3961
24/11/08	MAY09	1	LCX502	UNX192	3698
25/11/08	MAY09	1	LCX502	UNX192	3705
25/11/08	MAY09	1	LCX502	UNX192	3687
1/12/08	DEC08	2	UNX192	LCX502	3770
3/12/08	DEC08	20	OAB322	UNX192	3891
8/12/08	MAR09	1	LCX502	UNX192	3555
8/12/08	MAY09	12	UNX192	LCX502	3345
8/12/08	MAY09	1	UNX192	LCX502	3330
8/12/08	DEC08	1	UNX192	OAB322	3875
10/12/08	DEC08	18	OAB322	LCX502	3921
10/12/08	JAN09	1	OAB322	LCX502	3760
11/12/08	JAN09	1	LCX502	OAB322	3681
18/12/08	MAY09	5	UNX192	LCX502	3275
20/01/09	MAY09	2	UNX192	LCX502	3552
13/02/09	MAR09	1	OAB322	LCX502	3400
25/02/09	MAR09	2	LCX502	OAB322	3360
26/02/09	MAR09	2	OAB322	LCX502	3393
26/02/09	MAR09	1	OAB322	LCX502	3393
2/03/09	MAR09	5	UNX192	OAB322	3351
10/03/09	JUL09	1	UNX192	OAB322	3192

2. Without limiting the generality of the aforesaid, Mr Moosa admits that all of the aforesaid transactions created an artificial price for the relevant expiries of the Sunflower Future Contracts and that the transactions did not involve any change in the beneficial ownership of these securities.

3. Mr Moosa agrees to pay an administrative penalty in an amount of R4 million to the FSB on or before 31 January 2012.

4. Ten of the aforesaid transactions occurred prior to 1 November 2008, whilst the remaining 29 transactions occurred after 1 November 2008. The transactions will therefore be referred to the Enforcement Committee in terms of Section 94(e) of the Securities Act, to be dealt with in accordance with Sections 102 to 105 thereof[1] and in terms of Section 6 of the Financial Institutions (Protection of Funds) Act 28 of 2001.

5. The parties wish to request the Enforcement Committee to make an order in the following terms:

    a) It is found that Mr Mahomed Zubeir Moosa contravened Section 75 of the SSA on 39 occasions during the period from 14 July 2008 to 10 March 2009;

[1] Sections 97 to 106 have been repealed by Section 72 of the Financial Services Laws General Amendment Act 22 of 2008 ("**the Act**"), but remain of effect for purposes hereof.

b) Mr Moosa is ordered to pay an administrative penalty in the amount of R4 million to the FSB on or before 31 January 2012.

6. The parties acknowledge that this agreement is subject to the approval of the Enforcement Committee and the parties further specifically record that they are aware of the possibility that the Enforcement Committee may not accept the terms of this agreement. In such event this agreement will be null and void and neither party will have any rights or obligations in terms hereof.

7. If Mr Moosa does not comply with the terms of this agreement and it becomes necessary for the DMA to proceed with legal proceedings, Mr Moosa herewith consents to pay all legal costs to the DMA on the Attorney and Client scale in terms of the High Court Rules inclusive of collection commission and Value Added Tax.

8. No leniency or postponement given by the DMA or the FSB to Mr Moosa or any amendment to the terms and conditions of this agreement will be binding unless such postponement, leniency or amendment is reduced to writing and signed by the parties.

9. Any receipt of a payment by the FSB after the due date shall be without prejudice to any of the rights of the DMA or the FSB.

10. This Agreement shall not be a novation of the cause or causes of action in terms whereof Mr Moosa was found to have contravened the Act and the DMA reserves its rights.

11. This agreement constitutes the whole agreement between the parties in respect of the offer to pay an administrative penalty.

12. The parties select the addresses below as their *domicilium citandi et executandi* for purposes of service of the Enforcement Committee order and for any notice or pleading related to a breach of this agreement:

The Directorate of Market Abuse C/O The Financial Services Board Block B, Riverwalk Office Park 41 Matroosberg Road Ashlea Gardens Pretoria	Mr MZ Moosa 270 Currie Road Berea Durban

Signed at PRETORIA on the 12TH day of JANUARY 2012 on behalf of the DMA and the FSB.

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CK Chanetsa

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Witness

Signed at Pietermaritzburg on the 12th day of January 2012

.....
MZ Moosa

.....
Witness