

**COUNCIL FOR DEBT COLLECTORS
COUNCIL IN TERMS OF ACT 114 OF 1998**

Case Number: 8/6 SFS 001/08

In the matter:

COUNCIL FOR DEBT COLLECTORS THE COUNCIL
and
BINGHAVEN INVESTMENTS CC t/a 1st RESPONDENT
Strategic Financial Services
(as represented by LORNA NEL)

LORNA NEL 2nd RESPONDENT

**NOTICE BY THE COUNCIL FOR DEBT COLLECTORS IN TERMS OF
REGULATION 7(8)(a) OF THE REGULATIONS RELATING TO DEBT
COLLECTORS, 2003**

WHEREAS the First Respondent is a close corporation carrying on business as a debt collector and the Second Respondent is a member of the First Respondent
AND WHEREAS an allegation of improper conduct in terms of Section 15(2) read with Regulation 7(2) was submitted to the Council for Debt Collectors (herein after referred to as "the Council") by Zayne Muhammed Reshaad Marimuthu

NOW THEN TAKE NOTICE THAT:

Members of the Executive Committee of the Council on 14 July 2008 decided to charge the respondents with improper conduct as indicated below.

TAKE FURTHER NOTICE THAT:

In terms of Regulation 7(9) you must furnish the Council within 14 days of service of this notice with a written admission or denial of the charge/s. Upon admission of the charge/s, the Council shall deal with the matter as contemplated in Section 15(3) of the Act (Act 114 of 1998).

Charge 1.

The Respondents are guilty of improper conduct by contravening Section 15(1)(g) of Act 114 of 1998 read with Section 8(1) and further read with Sections 1, 14, 25(a) and Schedules 1, 2(2), 2(3), 7(1) and 7A(a) and (c) of the Code of Conduct, published under Government Notice R. 663 on 16 May 2003

IN THAT the Respondents, being debt collectors (as defined by Section 1) and being vicariously liable for the conduct of its members, servants and agents

On or about 26 March 2008 sent a Final Notice to Z Marimuthu, claiming payment in the sum of R 16 794.77 from him in respect of unpaid levies, accrued expenses and provided services, without being registered as debt collectors in terms of Section 9(3) of the Debt Collectors Act, Act 114 of 1998.

Charge 2.

The Respondents are guilty of improper conduct by contravening Section 15(1)(g) of Act 114 of 1998 read with Section 19(4) and further read with Sections 1 and 14 and Schedules 1, 2(2), 2(3), 7(1) and 7A(a) and (c) of the Code of Conduct, published under Government Notice R. 663 on 16 May 2003

IN THAT the Respondents, being debt collectors (as defined by Section 1) and being vicariously liable for the conduct of its members, servants and agents

On or about 26 March 2008 failed to deliver upon request of Z Marimuthu, a settlement account containing a complete exposition of all debits and credits in connection with a specific collection.

INVESTIGATION IN TERMS OF SECTION 15(2), ACT 114 / 1998
ONDERSOEK i.g.v ARTIKEL 15(2), WET 114/ 1998

1. Held at **Pretoria** on **23/02/2009, 24/04/2009** and **30/03/2009**.

Gehou te _____ op ____ / ____ / 20 ____

2. Investigating Committee (Sect 15(2) and Reg 7(1)(a))

Ondersoek Komitee (Art 15(2) en Reg 7(1)(a))

Chairman / Voorsitter **Adv. J. Noeth SC**

Member / Lid _____

Member / Lid _____

3. Particulars of Debt Collector(s) charged /

Besonderhede van Skuldinvorderaar(s) aangekla

1. Bingham Investments t/a Strategic Financial Services – 1st Respondent

2. Lorna Nel – 2nd Respondent

4. Person appointed to lead evidence (Reg 7(8)(b))

Adv. T. Gildenhuys

Persoon aangestel om getuienis te lei (Reg 7(8)(b)) _____

5. Particulars of person(s) appearing on behalf of Debt Collector(s) /

Besonderhede van persone wat namens Skuldinvorderaar(s) verskyn

(a) No appearance – Matter proceeded with in the respondents absence.

6. Charge(s) / Klagte(s)

As per chargesheet annexed hereto /

Soos per klagstaat hierby aangeheg.

7. Plea / Pleit:

Not guilty both counts.

8. The proceedings are recorded by mechanical means/

Die verrigtinge word meganies opgeneem

9. Finding/Bevinding:

Both Respondents guilty on both charges.

10. Sentence / Vonnis:

1. In terms of section 15(3)(e) of the Debt Collectors Act, 1998 (Act 114 of 1998) the respondents are jointly and severally ordered to pay the Council for Debt Collectors an amount of R 6631.00 in respect of the costs incurred by the Council in connection with the investigation. This amount must be paid to the Council on or before 30 April 2009.

2. In terms of section 15(3)(c) of the Debt Collectors Act, 1998 the respondents are jointly and severally fined as follow:

Count 1 – An amount of R 40 000.00

Count 2 – An amount of R 10 000.00

Both these amounts must be paid to the Council on or before 30 April 2009.

Council for Debt Collectors

BINGHAVEN INVESTMENTS T/A STRATEGIC FINANCIAL SERVICES 2009(1) CDC35

Council for Debt Collectors
versus
Strategic Financial Services

24 – 04 – 2009

JUDGMENT

Hierdie aangeleentheid loop nou 'n geruime tyd, en daar was verskeie pogings aangewend om verweerders hier te kry, ek het by die laaste geleentheid ook gelas dat daar stukke op Mike Nel beteken moet word wat klaarblyklik met die besigheid te doen het, en wat ons van mnr Bredenhann gehoor het, hy het met hom persoonlik gepraat en dat hy ook gesê het dat hy ook met Lorna Nel gepraat het, en sy sou eers met Mike praat. Baie moeite gedoen, stukke op hulle beteken, maar klaarblyklik ontwyk hulle die betekening, hulle wil nie teenwoordig wees nie, ek wil die getuienis laat aanhoor in hulle aanwesigheid weens die feit dat ek tevrede is dat die stukke korrek beteken was, en ek wil hulle graag hier voor die Raad hê en hulle wil nie kom nie.

Ek het die getuienis gehad van Zayne Muhammed Reshaad Marimuthu, wat baie duidelik uitgewys het wat die oortreding is wat hier begaan word, soos in die twee klagtes uiteengesit. Daardie getuienis staan sonder dat daar enige getuienis tot die teendeel aangebied is, en ek dink die verweerders is voldoende tyd gegun om voor my te kom verweer as hulle wou, maar dit is klaarblyklik baie duidelik dat hulle nie van plan is om verskyning hier aan te teken en hulle kant van die saak te stel nie.

Gevolglik vind ek hulle skuldig op albei klagtes soos aangekla.

VONNIS

Kragtens artikel 15(3) van die Wet op Skuldinvorderaars van 1998 gelas ek dat die verweerders gesamentlik en afsonderlik 'n bedrag van R6 631,00 aan die Raad betaal vir die koste deur die Raad opgeloop in verband met die ondersoek. Die bedrag is betaalbaar

voor of op 30 April 2009. Ek wil aan die hand doen as julle 'n faksnommer het dit onmiddellik vir hulle deurfaks.

Dan kragtens artikel 15(3)(c) van die Wet op Skuldinvorderaars word die verweerders weer eens gesamentlik en afsonderlik met 'n bedrag van - kyk in hierdie geval as ek die getuienis van Marimuthu reg onthou het die man nie net die bedrag van hom gevra nie, maar hy het hom gevloek ook. Vuil taal gebruik, en dit is onaanvaarbaar, dit is absoluut verswarend so ek beboet hom op klagte 1 met R40 000,00.

Op klagte 2 beboet ek hulle gesamentlik en afsonderlik met 'n bedrag van R10 000,00. Albei hierdie bedrae is ook betaalbaar voor of op 30 April 2009.