

**IN THE NATIONAL CONSUMER TRIBUNAL
HELD IN CENTURION**

Case Number: NCT/179793/2021/57(1)

In the matter between:

NATIONAL CREDIT REGULATOR

APPLICANT

AND

LIMALI FINANCIAL SERVICES CC T/A STAR LOANS

RESPONDENT

Coram:

Ms H Alwar - Presiding Tribunal member

Date of adjudication in chambers – 29 June 2022

Last date documents received: 1 July 2022

Date of judgment and order- 1 July 2022

JUDGMENT AND ORDER

APPLICANT

- 1 The Applicant is the National Credit Regulator (the Applicant), a juristic person established by section 12 of the National Credit Act, 2005 (the Act) with its physical address at 127 15th Road, Randjiespark, Midrand, Johannesburg, Gauteng.

RESPONDENT

2. The Respondent is Limali Financial Services CC t/a 5 Star Loans (referred to as the Respondent), a registered Credit Provider with registration number NCRCP317, with its business address at 29B Queen Street, Ladysmith.

APPLICATION TYPE

3. This is an application in terms of section 138 (1) (b)¹ of the Act for the Tribunal to confirm a settlement agreement as a consent order.
4. The Applicant has submitted a Settlement Agreement that the parties wish to be confirmed as a consent order (the settlement agreement). A reference to a section in this consent order refers to a section in the Act.

BACKGROUND

5. The application arises out of a complaint initiated by the Applicant. The Applicant conducted an investigation into the business practices of the Respondent. The matter was set down for 17 August 2021. However, the parties requested that the matter be removed from the roll, as the parties intended to file a settlement agreement.
6. In summary the settlement agreement records the Respondent's overcharging fees and interest, failure to take reasonable steps to conduct affordability assessments, failure to provide consumers with credit agreements in the prescribed format, the inclusion of unlawful provisions in the credit agreements, and non-compliance with statutory reporting.
7. The settlement agreement also records that the Respondent will carry out an audit and refund consumers that were overcharged on fees and interest. The Respondent will take necessary steps to remove adverse listing of consumers, and to take reasonable steps to have the judgments against consumers rescinded or abandoned. The Respondent will also pay an administrative fine.
8. The Applicant and the Respondent agree that the settlement agreement may be confirmed as a consent order in terms of section 138 (1) (b).

¹ Section 138 (1) (b) provides that if a matter has been investigated by the National Credit Regulator, and the National Credit Regulator and the respondent agree to the proposed terms of an appropriate order, then the Tribunal without hearing evidence, may confirm the resolution or agreement as a consent order.

ANALYSIS

9. Section 138 (1) (b) must be read with section 150, which empowers the Tribunal to make an appropriate order in relation to prohibited or required conduct, and in subsection (d) includes confirming a “consent agreement” as an order of the Tribunal.
10. The Tribunal is satisfied that the settlement agreement correctly records the Respondent’s prohibited conduct; and that the Respondent has undertaken to perform a range of remedial actions. The Tribunal has considered that the Applicant and the Respondent have agreed that the settlement may be confirmed as a consent order in terms of section 138(1)(b).

CONCLUSION

11. Consequently, the Tribunal is persuaded that it is appropriate to grant the application and confirm the settlement agreement as a consent order.

ORDER

12. Accordingly, the Tribunal makes the following order:-
 121. The settlement agreement that the Applicant and the Respondent concluded on 31 May 2022; which is annexed to this consent order as “Annexure A to NCR v Limali Financial Services CC t/a 5 Star Loans NCT/179793/2021/57(1)”, is confirmed and made an order of the National Consumer Tribunal in terms of section 138(1)(b) of the National Credit Act, 2005; and
 122. There is no order as to costs.

DATED ON THIS 1st DAY OF JULY 2022

[SIGNED]

MS H ALWAR
PRESIDING MEMBER

Authorised for issue by The National Consumer Tribunal

National Consumer Tribunal

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