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GENERAL NOTICES ALGEMENE KENNISGEWINGS

NOTICE 963 OF 1998

DEPARTMENT OF TRADE AND INDUSTRY

HARMFUL BUSINESS PRACTICES ACT, 1988

I, Alexander Erwin, Minister of Trade and Industry, do hereby, under section 10 (3) of the Harmful Business Practices Act, 1988 (Act No. 71 of 1988), publish the report of the Business Practices Committee on the result of an investigation made by the Committee pursuant to Notice No. 1820 of 1997 (*Government Gazette* No. 18466 of 24 November 1997), as set out in the Schedule.

A. ERWIN

Minister of Trade and Industry

KENNISGEWING 963 VAN 1998

DEPARTEMENT VAN HANDEL EN NYWERHEID

WET OP SKADELIKE SAKEPRAKTYKE, 1988

Ek, Alexander Erwin, Minister van Handel en Nywerheid, publiseer hiermee, kragtens artikel 10 (3) van die Wet op Skadelike Sakepraktyke, 1988 (Wet No. 71 van 1988), die verslag van die Sakepraktykekomitee oor die uitslag van die ondersoek deur die Komitee gedoen kragtens Kennisgewing No. 1820 van 1997 (*Staatskoerant* No. 18466 van 24 November 1997) soos in die Bylae uiteengesit.

A. ERWIN

Minister van Handel en Nywerheid

SCHEDULE • BYLAE

BUSINESS PRACTICES COMMITTEE

**REPORT IN TERMS OF SECTION 10(1) OF THE HARMFUL BUSINESS
PRACTICES ACT, 1988 (ACT No. 71 OF 1988)**

Report No. 60

DUNAMUS MARKETING CC AND OTHERS

1. Introduction

Dunamus Marketing CC, formerly Henzel Services CC, traded as Dunamus. The members of Dunamus were Jacques Michael Cullen (Cullen), Riaan Jurie Ferreira (Ferreira), L'Mari Langeveldt (Langeveldt) and Johannes Michael van Reenen (van Reenen). A brochure of Dunamus obtained during October 1997 stated *inter alia*:

"What kind of organisation is Dunamus? Dunamus is a multi-level debt repayment and Capital empowerment Corporation which offers professional services to the public and private sector. As a dynamic organisation, we are focussed on controlled growth and development of human financial status. We support the principles of financial independence and strive to create realistic opportunities for underprivileged South Africans".

A later undated brochure proclaimed:

"Welcome to DUNAMUS

You have just come into contact with the most dynamic Marketing and service organisation.

Our main aim is to afford you an opportunity to reap the benefits of our marketing and service actions, the sale of products and to earn a commission.

Your association with our operation is voluntary and only you will determine to what extent you will benefit by participating".

The aims of Dunamus were stated as:

- Financial progression
- Improved living standard
- Uplifting social status
- Higher income
- Ambition satisfaction

and

the mission was described as:

- Professionalism
- Mutual trust
- Unbiased third party
- Higher income in shortest time with least inconvenience
- Goal related marketing
- Communication.

The scheme was started by Dunamus on 22 September 1997.

2. The scheme

Assume "E" just became a participant to the scheme. "E" would then have in his/her possession five "Commission Structure Certificates". The name of "E" would appear as number five on each of the "Commission Structure Certificates". The "Certificate" had the following appearance:

Commission Structure Certificate

	Name	Bank	Branch code	Account type	Account number
1	A	Standard		Savings	555555555
2	B	United		Credit card	222222222
3	C	Volkscas		Cheque	333333333
4	D	Nedbank		Savings	111111111
5	E	Trust		Credit card	444444444
6	Dunamus	FNB		Cheque	5001123181

Underneath the "Commission Structure Certificate" was printed an "Application". The name of Dunamus always appeared as number 6 on all "certificates" issued to participants. The names "A", "B", "C" and "D" on the list would already have had become participants to the scheme at an earlier stage and their names would be printed on the "certificate". Note that next to each name on the list were details such as "bank", "branch code", "account type" and "account number". Assume "E" now canvassed "V", "W", "X", "Y" and "Z". In order to simplify the explanation of the scheme, only the procedure following the canvassing of "V" by "E" would be discussed.

"V" now had to deposit R50 into the bank accounts of each of the six names on the list. The total outlay by "V" was thus R300, R50 being earmarked for Dunamus and R50 each for the accounts of "A", "B", "C", "D" and "E". "V" then had to send the original deposits slips together with his application form to Dunamus in Pretoria. On the application "V" filled in his name, address, telephone number, his bank, the branch and the branch code of the bank, the type of account and his account number. On receipt of the application form and the six deposit slips, Dunamus issued 5 "certificates" to "V". The name of "V" would appear next to number 5 on the list on each of these "certificates". The name of "E" would move to the number 4 spot, "D" to number 3, "C" to number 2 and "B" to number 1. "A" would then drop from the list. "V" then had to find other potential participants and the cycle would repeat itself. The name of "V" would eventually appear as number 1 on all the lists of his/her own "pyramid".

The total potential amount "V" could receive was $R50 \times 5^5$, or R156 250, provided that the participants canvassed by "V" each also canvassed five others and the chain was not broken by anyone. "V" could receive more than R156 250 should he/she

participated more than once. Each new participant obviously deposited R50 into an account of Dunamus. It would seem that Dunamus changed banks on more than one occasion. During October 1997 Dunamus had a savings account, number 9052171927, at ABSA Bank, Sunnyside. The savings account was opened in the name of Langeveldt.

A brochure of Dunamus explained the scheme as follows:

"Eight easy steps to participate:

- 1) Subject to stipulations: characteristics; commission agency.
- 2) Acquire a certificate from the person who introduced you to Dunamus.
- 3) Deposit a non-refundable amount of R50 (VAT included) into our account (initial cash payment).
- 4) Deposit the amounts reflected in the certificate into the other accounts mentioned therein.
- 5) Complete the application form and hand same in together with the deposit slips at the point of collection - only deposits for cash will be acceptable.
- 6) We will give you 5 commission structure certificates (with your name appearing in position 5) as well as your product and our brochure.
- 7) Your name will progressively advance from no 5 to no 1 depending upon introduction by you of new participants.
- 8) Watch your benefits increase and reap the benefits afforded to participants".

3. The Committee

The Business Practices Committee (the Committee) is a statutory body within the Department of Trade and Industry. The Committee administers the Harmful Business Practices Act, No 71 of 1988 (the Act). The purpose of this enabling act is to provide for the prohibition of harmful business practices. A "harmful business practice" is any business practice that has or is likely to have the effect of harming the relations between businesses and consumers, unreasonably prejudicing any consumer or deceiving any consumer.

4. The enquiry that led to the investigation

During the second week of October 1997 an investigating officer (official) of the Committee received a call from a consumer enquiring if Dunamus was legally conducting business. If so, the caller was anxious to start a similar scheme. A meeting was arranged between the caller and the official and a number of documents was handed to the official.

5. The preliminary investigation

On 17 October 1997, at a meeting of the full Committee, it was resolved to undertake a preliminary investigation in terms of section 4(1)(c) of the Act into the business practices of Dunamus Marketing CC. A section 4(1)(c) investigation enables the Committee to make such preliminary investigation as it may consider necessary into, or confer with any interested party in connection with, any harmful business practice which allegedly exists, or may come into existence. Notice of section 4(1)(c) investigations is not published in the Government Gazette as opposed to section 8(1)(a) investigations. The purpose of a section 4(1)(c) investigation is to enable the Committee to make a more informed decision as to whether a section 8(1)(a) investigation is called for. The Minister of Trade and Industry (the Minister) is not empowered to make any decisions on the strength of a section 4(1)(c) investigation. He may do so in terms of a section 8 investigation.

An official visited the offices of Dunamus on 21 October 1997 and a discussion was held with Cullen. Cullen said that his parents lost money in the Newport venture. (See Report 56 of the Committee into the business practices of the Newport Business Club (Pty) Ltd) His said that his father suggested to him that he should start a scheme that played "open cards" with the public. The father further suggested that the scheme should be honest and provide people with a "perfect service". This could be achieved by introducing "absolute controls". Cullen stated that he studied Amway, Herbalife and Sportron before he came upon the idea for Dunamus. When asked what the products of Dunamus were, he replied "... a concept and an opportunity".

He further alleged that Dunamus gave "... a lot of money to charities", for example, the Bergsig School for Handicapped Children, Reinhardts Place and the Nelson Mandela Childrens' Fund. At that stage Dunamus had donated R5 000 to charity, but this would be stepped up. They had plans to "... bring in the church" and contributions to the church would be earmarked for missionary work. He guessed that Dunamus had 4 000 participants.

The official again briefly visited Dunamus on 22 October 1997 to look into Dunamus' system. There were a number of free standing personal computers, not linked to a local area network, and the details of the participants were captured on Microsoft Excel. There were a number of prospective participants, including a police sergeant, in the reception room. Dunamus at that stage had no employees and Cullen, Ferreira, Langeveldt and van Reenen did the necessary administrative work.

On 5 November 1997 the Committee received a complaint against Dunamus. The complainant stated that he was concerned about the effect of the scheme on the community. He alleged that the scheme was well supported because large amounts have already been paid into the accounts of some participants. He mentioned that the personnel of two primary schools in the eastern suburbs of Pretoria were involved in the scheme. He mentioned the names of the two schools and claimed that the teachers explained the scheme to the pupils during classes to get their parents involved.

On 7 November 1997 the official again paid a short visit to the offices of Dunamus. Consumers were queuing on the steps at the entrance of the building to enrol as participants. Dunamus could apparently not accommodate everyone in the offices. The office was a beehive of activity. Cullen stated that Dunamus employed 12 people on a part-time basis.

Cullen said that approximately 40 000 "certificates" had been distributed ("... was put in the field"). The official suggested to Cullen that, if this was the case, approximately 900 deposits of R50 each was made into the savings account of Langeveldt and that this amounted to R45 000 per day. He agreed with this figure. On further questioning Cullen said that they withdrew money from the account on a daily basis and that this cash was stored in a safe. On the same day, 7 November 1997, Dunamus opened a current account with the same bank. The account number, in the name of JWC Trading, was 1500187294.

The official was handed a new brochure of Dunamus: It now stated, *inter alia*:

"What kind of organisation is Dunamus? Dunamus is a closed corporation that specialises in Multi-level marketing which also offers a service to the public. As a dynamic organisation, we are focussed on controlled growth and development of human financial status and strive to create realistic opportunities for all South African Entrepreneurs".

On 10 November 1997 officials again visited Dunamus and spoke to Ferreira. Again there was a beehive of activity and the officials counted 63 people in the offices. There was a steady stream of consumers into and out of the offices. The officials also talked to a messenger in the lift. He was sent by a consumer to hand in his, the consumer's, "certificate". Ferreira said that there were now 42 000 "certificates" in the field. He stated that Cullen, Langeveldt, van Reenen and himself each had a 25 per cent interest in Dunamus. The computers were now linked to a local area network.

6. The section 8(1)(a) notice

On 19 November 1997 the Committee resolved to undertake a section 8(1)(a) investigation in terms of the Act into the business practices of Dunamus. A section 8(1)(a) investigation enables the Committee to undertake such an investigation as it may consider necessary into any harmful business practice which the Committee or the Minister, as the case may be, has reason to believe exists or may come into existence. The focus of a section 8(1)(a) investigation is on a specific entity.

The following notice appeared as Notice No 1820 in Government Gazette No 18466 of date 24 November 1997:

"In terms of the provisions of section 8(4) of the Harmful Business Practices Act, 1988 (Act No. 71 of 1988), notice is herewith given that the Business Practices Committee intends undertaking an investigation in terms of section 8(1)(a) of the said Act into the business practices of Dunamus Marketing CC (97/48415/23), Jacques Michael Cullen (ID 750321 5268 08 3), Riaan Jurie Ferreira (ID 760618 5044 08 5), L'Mari Langeveldt (ID 750326 0004 08 6) and Johannes Michael van Reenen (ID 771003 5061 08 1) and any member (as applicable), of Dunamus Marketing CC as well as any employee, agent and/or representative of any of the afore-mentioned relating to the activities of Dunamus.

Any person may within a period of fourteen (14) days from the date of this notice make written representations regarding the above-mentioned investigation to: The Secretary, Business Practices Committee, Private Bag X84, PRETORIA, 0001".

7. Events after the publication of the section 8(1)(a) notice

25 November 1997: The Committee received a letter from the attorneys (the attorneys) of Dunamus in which the co-operation of Dunamus was promised.

26 November 1997: The Committee wrote a letter to the attorneys requesting that a submission on behalf of Dunamus was required before 1 December 1997. The notice of the investigation in Government Gazette 18466 stated that any person may within a period of fourteen days from the date of this notice make written representations regarding the investigation to the Committee.

1 December 1997: The attorneys said that their clients needed more time to prepare their submissions.

2 December 1997: A complaint was received from the South African Police Services against Dunamus.

8 December 1997: The Committee received a letter from the attorneys. In this letter technical issues were raised.

17 December 1997: The Committee responded to the letter of the attorneys dated 8 December 1997 and Dunamus was granted another 14 days to make written representations.

7 January 1998: The Committee received a complaint from the Financial Services Board against Dunamus and the attorneys wrote a letter to the Committee once again raising technical issues.

9 January 1998: The attorneys were informed that a meeting of the Committee would be held 22 January 1998 and that the Committee required the submission of Dunamus before 15h00 on 20 January 1998.

19 January 1998: The attorneys were asked how many persons would attend the proposed meeting of the Committee on 22 January.

20 January 1998: The Committee received a complaint from Department of Finance against Dunamus.

22 January 1998: The lawyer of Dunamus, Ferreira, Langeveldt and van Reenen attended the hearing by the Committee. The hearing was recorded by International Data Solutions CC.

8. The hearing on 22 January 1998

The lawyer addressed the Committee on behalf of his clients. The Chairman of the Committee told the lawyer that although the members of the Committee had already looked into the scheme operated by Dunamus, the Committee did not have the opportunity to give Dunamus the opportunity to talk to the Committee. At that stage the Committee only read an exposition of the scheme as set out by the investigating officer. The hearing was an opportunity to brief the Committee fully on the way the scheme operated and to answer any questions that the Committee may wish to put to his clients.

The lawyer then proceeded to explain the scheme to the members of the Committee and questions were put by individual members of the Committee to the lawyer and to the members present of Dunamus CC. In answer to a question by a member of the Committee the lawyer said, *inter alia*:

"The only goods that are involved, is that, like you've said, you get a certificate and that is the end of it. There's no other goods involved. Barred from donations for charity that has been done, barred from any other venture that might come from this".

Another member of the Committee put it to the lawyer that the scheme of his clients could be regarded as "... a controlled chain letter". The lawyer answered that this might be the case. It also appeared that Dunamus CC received between R800 000 and R1 million at that stage.

Van Reenen said that Dunamus planned to introduced products into the scheme. The members of Dunamus thought of introducing a card system whereby participants to the Dunamus scheme would receive discounts from selected retailers. The lawyer said:

"Up to now there hasn't been any products. Nothing at all. That I concede, but that's why we came and that is our attitude, is before this Committee and say

give us an opportunity of two weeks to come with a proposal that is accepted by this honourable Committee. This our product, we've got A, or we're going to not restructure the whole scheme, but to give more value and less risk, if I might put it that way, to it. With the consent of this Committee".

The vice-chairman of the Committee said that he did not have a problem with this approach, but that the discussion "... is based centrally on the business as it runs now - isn't it? Not how it's going to be run in the future. ... And I think that's why we're here. We're not dealing with when you have products, we're dealing with now as you are running. At the moment Dunamus is not specialising in marketing products".

After the Committee applied their minds to the evidence led by the lawyer, Dunamus was told by the Chairman that they have not convinced the Committee that there was anything different between Dunamus and any other straight forward money circulating scheme. Dunamus was also informed that the Committee resolved to recommend to the Minister that he should proceed to stop the Dunamus operation. The Committee also resolved to recommend to the Minister that he should issue a section 8 (5) notice in terms of the Act. Action in terms of section 8(5) is a temporary interdict pending the final report.

9. Events after the hearing on 22 January 1998

On 29 January 1998 Dunamus, Cullen, Ferreira, Langeveldt and van Reenen served a motion in the High Court of South Africa on the Chairman of the Committee, the Chairman of a subcommittee of the Committee and the Minister to the effect that the Committee be stopped to present its report and recommendation to the Minister. In this regard see case number 2407/98 of the High Court of South Africa, Transvaal Provincial Division.

The case was set down for 10 February 1998 but was postponed to 17 February 1998. The hearing took place on 17 February 1998 and judgment was given on 18 February 1998. The application of Dunamus against the Committee and the Minister was dismissed with costs.

On 9 March 1998 an official of the Committee again visited the offices of Dunamus. Some of the offices were vacated and new tenants occupied others. A sign was posted on the door. It read (translated from the Afrikaans): "We have moved to Cape Town. Enquiries: Call Pierre van Zyl, (021) 914-5114".

10. The section 8(5) notice

The following appeared as Notice 741 of 1998 in Government Gazette 18868 dated 8 May 1998:

"I, Alexander Erwin, Minister of Trade and Industry, herewith declare that I have reason to believe that **Dunamus Marketing CC, Dunamus Service Excellence, Jacques Michael Cullen, Riaan Jurie Ferreira, L'Mari Langeveldt and Johannes Michael van Reenen** and/or any member, participant, agent, representative, employee or any other person on their behalf (hereafter referred to as "the aforesaid persons"), are applying a harmful business practice, which practice is the subject of an investigation by the Business Practices Committee. I hereby order the parties mentioned herein from the date of publication of this notice until 23 May 1998 to *stay or prevent* the business practice whereby any person, in the course of the business of any of the aforesaid persons, directly and/or indirectly -

- (a) invites any person (hereinafter referred to as the "participating person") to enter into any arrangement with any of the aforesaid persons the terms whereof include any provision which have the effect that the participating person is obligated to make a payment of a financial consideration with the prospect of such participating person receiving payment or other money-related benefits, directly or indirectly, from his/her participation in the recruitment of other persons to enter into similar arrangements with any of the aforesaid persons;
- (b) enters into any arrangement with any person the terms whereof includes any provision which has the effect that the participating person is obligated to make a payment of a financial consideration with the prospect of such participating person receiving payment or other money-related benefits, directly or indirectly, from his/her participation in the recruitment of other persons to enter into similar arrangements with any of the aforesaid persons;
- (c) accepts any financial consideration from any person in terms of any arrangement which financial consideration is used in part or in full to fulfil the obligations of either party to make payment to a third party who has entered into a similar arrangement with any of the aforesaid persons; and
- (d) makes any payment of any financial consideration or give any money-related benefit, directly or indirectly, to any person in terms of any arrangement as prohibited in terms of paragraph (b) or (c) above".

The name "Dunamus Service Excellence" was included in the section 8(5) notice because it came to the attention of the Committee that this close corporation was incorporated on 14 January 1998 and its members were Cullen, Ferreira, Langeveldt and Van Reenen.

On date 27 March 1998 the Minister informed the members of Dunamus Marketing CC trading as Dunamus, P O Box 5522, PRETORIA, by registered post that he had received the recommendation of the Committee about the section 8(5) notice. The Minister stated that the staying order would be in force from the date of publication of the section 8(5) notice in the Government Gazette until 23 May 1998 or until the result of the investigation by the Committee in terms of the Act was made known, whichever date occurs first. To adhere to the *audi alteram partem* rule, the Minister gave Dunamus the opportunity to submit to him its written comment on the recommendation made by the Committee strictly within seven days of the date of his letter.

11. An analysis of the scheme

Dunamus' only product was money and the scheme's continued existence relied totally on the ever increasing numbers of new participants. The success of Dunamus and its participants was dependent on the money received from its participants and new participants on a continuous basis. This was implicitly conceded by Cullen. Dunamus contended that it sold "... a concept and an opportunity" to participants

The potential advantage to a consumer who became a participant lay in the right to recruit new participants. The incentive to new participants to recoup their initial cash payment lay in the canvassing of further new participants on which this scheme was dependent.

The explanation of the scheme showed that a new participant needed to recruit a number of other participants to recoup his or her payment of R300, or multiples thereof, and make a profit. The R300 was appropriated as follows: R50 was paid into the account of Dunamus and R250 was paid to the five other participants. These five new participants needed to recruit at least 25 other participants to have recouped their payments. Assume further that at some stage 25 consumers participated in the scheme. These 25 participants needed to recruit at least 125 new participants to recoup their payments. The scheme now had 150 participants of whom only 25 recouped their payments. To recoup their payments the 125 "out-of-pocket" participants needed to recruit at least 625 new participants. The scheme now has 775 participants of whom 150 recouped their payments while the remaining 625 participants needed to recruit at least 3125 new participants to recoup their payments. The cumulative figures are set out in the next table.

The figures in column A reflect the number of new participants required to enable previous participants to recoup their payments. For example, the 100 new participants would need to canvass 500 new participants to recoup their payments, and the 12 500

participants need to recruit 62 500 new participants to recover their payments.

The figures in column B show the numbers of participants necessary to enable the previous participants to break even. For example, 150 people must become participants of the scheme to enable the previous 25 participants to recoup their payments.

The last column in the table shows the percentage of participants that have not yet recouped their payments. Given the assumptions underlying the figures in the table, it is clear that the percentage of participants that would not recover their payments would never be smaller than 80 per cent. This would apply to the total number of participants, irrespective of at what stage they joined the scheme.

New participants (A)	Total participants (B)	A as a % of B
	25	
100	150	83.3333
500	775	80.6451
2 500	3 900	80.1282
12 500	19 525	80.0256
62 500	97 650	80.0051
312 500	488 275	80.0010
1 562 500	2 441 400	80.0002
7 812 500	12 207 025	80.0000

Proponents of schemes such as Dunamus argued that no saturation point could be reached. Theoretically and mathematically this might be the case, depending on the underlying assumptions. The extent of a new participant's possible earnings is clearly limited by the extent of the market, and the market is limited. The population growth rate does not match the exponential rate required to make the scheme viable for all participants over a relatively short period. Most of the people that parted with their monies probably joined Dunamus with the expectation to make a handsome profit. What attracted participants to the scheme was the possibility to make handsome amounts of money in weeks if not months, but certainly not years.

The scheme can never reach a stage where everybody has recovered their payments. Those that have not canvassed any new participants will lose their R300. The "management" and those ending up as number 1 on the list stand to earn substantial amounts. Those that have not canvassed five other participants will be unreasonably prejudiced. This will apply to all participants, irrespective of at what stage they participated in the scheme.

It would become increasingly difficult for any participant to find further potential participants the longer the scheme operates. Only a growth in the target market would provide potential participants. The growth in the target market would also have to be equal or higher than the exponential rate required for everyone to recoup their payments within a reasonable period of time.

12. Conclusion

The Committee is of the opinion that Dunamus participants would be unreasonably prejudiced. The following are the reasons for this standpoint:

At any time at least 80 per cent and possibly more of the participants are at risk. The relations between those participants who have not recouped their payments and the business, Dunamus, will be harmed. In terms of the Act this by itself would constitute a harmful business practice.

The argument that saturation will never be reached relies on the proposition that growth in the target market will exceed the growth in the scheme. No evidence has been led on this issue.

About 17 per cent of each payment is paid to the management. They have fully recovered their own payments, which were relatively low, and their only prejudice is the lack of future income from new participants.

The principles of a free market economy are not absolute but relative. For example, the right of an individual to free market activity is counterbalanced by the right of an equally free society to curb its excesses. It is contended by some people that, where informed individuals engage in a business entity in which a substantial number of such individuals will lose their money, such loss is not unreasonably prejudicial because it was a free and informed decision. The essential flaw in this contention is that the reasonableness or unreasonableness of the prejudice inherent in the practice of a business entity likely to be suffered by a substantial number is not the purview of the free individual but of the free society. What is reasonable in the perspective of the free individual is likely to be unreasonable in the perspective of free society when substantial numbers are involved. The standards of reasonableness will also depend upon the facts of each particular case, regard being had to the operational methods and controls of the business practice, the extent of disclosures in the absence of regulatory mechanisms and the accountability of its office bearers.

The Committee is of the opinion, because of the reasons advanced, that the activities of Dunamus constitute harmful business practices as defined in the Act. The Committee is further of the opinion that the harmful business practice is not justified in the public interest and that the Minister should take steps in terms of Section 12(b) and (c) of the Act to prevent the parties involved to continue the harmful business practice.

13. Recommendation

The business practices of Dunamus constitute harmful business practices. There are no grounds justifying these practices in the public interest. It is accordingly recommended that the Minister declares the harmful business practices unlawful in terms of Section 12(1)(b) of the Act which practices are the subject of the investigation whereby anyone or more of the following persons, to wit:

Dunamus Marketing CC, Dunamus Service Excellence, Jacques Michael Cullen, Riaan Jurie Ferreira, L'Mari Langeveldt and Johannes Michael van Reenen and/or any member, participant, agent, representative, employee or any other person on their behalf (hereafter referred to as "the aforesaid persons"), are applying a harmful business practice, which practice is the subject of an investigation by the Business Practices Committee. I hereby order the parties mentioned herein from the date of publication of this notice until 23 May 1998 to *stay or prevent* the business practice whereby any person, in the course of the business of any of the aforesaid persons, directly and/or indirectly -

- (a) invites any person (hereinafter referred to as the "participating person") to enter into any arrangement with any of the aforesaid persons the terms whereof include any provision which have the effect that the participating person is obligated to make a payment of a financial consideration with the prospect of such participating person receiving payment or other money-related benefits, directly or indirectly, from his/her participation in the recruitment of other persons to enter into similar arrangements with any of the aforesaid persons;
- (b) enters into any arrangement with any person the terms whereof includes any provision which has the effect that the participating person is obligated to make a payment of a financial consideration with the prospect of such participating person receiving payment or other money-related benefits, directly or indirectly, from his/her participation in the recruitment of other persons to enter into similar arrangements with any of the aforesaid persons;
- (c) accepts any financial consideration from any person in terms of any arrangement which financial consideration is used in part or in full to fulfil the obligations of either party to make payment to a third party who has entered into a similar arrangement with any of the aforesaid persons; and
- (d) makes any payment of any financial consideration or give any money-related benefit, directly or indirectly, to any person in terms of any arrangement as prohibited in terms of paragraph (b) or (c) above.

ERIC M MAFUNA

VICE-CHAIRMAN: BUSINESS PRACTICES COMMITTEE

15 May 1998

NOTICE 964 OF 1998**DEPARTMENT OF TRADE AND INDUSTRY****HARMFUL BUSINESS PRACTICES ACT, 1988 (ACT No. 71 OF 1988)**

Whereas I, Alexander Erwin, Minister of Trade and Industry, after consideration of a report by the Business Practices Committee in relation to an investigation of which notice was given in Notice No. 1820 of 1997 (Government Gazette No. 18466 of 24 November 1997) and which report was published by General Notice No. 963 of 1998 (Government Gazette No. 18972 of 12 June 1998) am of the opinion that a harmful business practice exists which is not justified in the public interest, do hereby exercise my powers under section 12 (1) (b) and (c) of the Harmful Business Practices Act, 1988, as set out in the Schedule.

A. ERWIN

Minister of Trade and Industry

SCHEDULE

In this notice unless the context indicates otherwise—

“harmful business practice” means to directly and/or indirectly—

- (a) invite any person (hereinafter referred to as the “participating person”) to enter into any arrangement with any of the parties the terms whereof include any provision which have the effect that the participating person is obligated to make a payment of a financial consideration with the prospect of such participating person receiving payment or other money-related benefits, directly or indirectly, from his/her participation in the recruitment of other persons to enter into similar arrangements with any of the parties;
- (b) enter into any arrangement with any person the terms whereof include any provision which has the effect that the participating person is obligated to make a payment of a financial consideration with the prospect of such participating person receiving payment or other money-related benefits, directly or indirectly, from his/her participation in the recruitment of other persons to enter into similar arrangements with any of the parties;
- (c) accept any financial consideration from any person in terms of any arrangement which financial consideration is used in part or in full to fulfil the obligations of either party to make payment to a third party who has entered into a similar arrangement with any of the parties; and
- (d) make any payment of any financial consideration or give any money-related benefit, directly or indirectly, to any person in terms of any arrangement as defined in terms of paragraph (b) or (c) above.

“parties” means Dunamus Marketing CC, Dunamus Service Excellence, Jacques Michael Cullen, Riaan Jurie Ferreira, L'Mari Langeveldt and Johannes Michael van Reenen and/or any member, participant, agent, representative, employee or any other person acting on their behalf.

1. The harmful business practice is hereby declared unlawful in respect of the parties.
2. The parties are hereby directed to—
 - (a) refrain from applying the harmful business practice;
 - (b) cease to have an interest in a business or type of business which applies the harmful business practice or to derive any income thereof;
 - (c) refrain from at any time applying the harmful business practice; and
 - (d) refrain from at any time obtaining any interest in or deriving any income from a business or type of business applying the harmful business practice.
3. This notice shall come into operation on the date of publication.

KENNISGEWING 964 VAN 1998**DEPARTEMENT VAN HANDEL EN NYWERHEID****WET OP SKADELIKE SAKEPRAKTYKE, 1988 (WET No. 71 VAN 1988)**

Aangesien ek, Alexander Erwin, Minister van Handel en Nywerheid, na oorweging van 'n verslag deur die Sakepraktykekomitee met betrekking tot 'n ondersoek waarvan kennis gegee is by Kennisgewing No. 1820 van 1997 (*Staatskoerant* No. 18466 van 24 November 1997) en welke verslag gepubliseer is by Algemene Kennisgewing No. 963 van 1998 (*Staatskoerant* No. 18972 van 12 Junie 1998), van oordeel is dat 'n skadelike sakepraktyk bestaan wat nie in die openbare belang geregverdig is nie, oefen ek hierby my bevoegdhede uit kragtens artikel 12 (1) (b) en (c) van die Wet op Skadelike Sakepraktyke, 1988, soos in die Bylae uiteengesit.

A. ERWIN**Minister van Handel en Nywerheid****BYLAE**

In hierdie kennisgewing, tensy uit die samehang anders blyk, beteken—

“skadelike sakepraktyke” om direk en/of indirek—

- (a) enige persoon (hierna verwys as die “deelnemende persoon”) uit te nooi om in enige ooreenkoms met die partye te tree waarvan die terme enige voorsiening insluit wat die effek het dat die deelnemende persoon verplig is om 'n betaling van 'n finansiële teenprestasie te maak met die voorneme dat sodanige deelnemende persoon betaling of enige ander finansiële verwante voordele, direk of indirek, van sy/haar deelname in die werwing van ander persone om in soortgelyke reëlings te tree met enige van die partye, ontvang;
- (b) in enige reëling met enige persoon te tree waarvan die terme enige voorsiening insluit wat die effek het dat die deelnemende persoon verplig is om 'n betaling van 'n finansiële teenprestasie te maak met die voorneme dat sodanige deelnemende persoon betaling of enige ander finansiële verwante voordele, direk of indirek, van sy/haar deelname in die werwing van ander persone om in soortgelyke reëlings te tree met enige van die partye, ontvang;
- (c) enige finansiële teenprestasie te aanvaar van enige persoon in terme van enige reëling welke finansiële teenprestasie gedeeltelik of in totaal gebruik word om die verpligtinge van enige party om betaling aan 'n derde party wat in 'n soortgelyke reëling met die partye ingetree het, na te kom; en
- (d) enige betaling te maak van enige finansiële teenprestasie of enige finansiële verwante voordele gee, direk of indirek, aan enige persoon in terme van enige reëling soos omskryf in terme van paragraaf (b) of (c) hierbo.

“party” beteken Dunamus Marketing CC, Dunamus Service Excellence, Jacques Michael Cullen, Riaan Jurie Ferreira, L'Mari Langeveldt en Johannes Michael van Reenen en/of enige lid, deelnemer, agent, verteenwoordiger, werknemer of enige ander persoon wat namens hulle optree.

- 1. Die skadelike sakepraktyk word hiermee ten opsigte van die partye onwettig verklaar.
- 2. Die partye word hiermee gelas om—
 - (a) af te sien van die toepassing van die skadelike sakepraktyk;
 - (b) op te hou om enige belang in 'n besigheid of tipe besigheid te hê wat die skadelike sakepraktyk toepas, of om enige inkomste daaruit te verkry;
 - (c) te gener tyd die skadelike sakepraktyk toe te pas nie; en
 - (d) te gener tyd enige belang in 'n besigheid of tipe besigheid wat die skadelike sakepraktyk toepas, te bekom, of om enige inkomste daaruit te verkry nie.
- 3. Hierdie kennisgewing tree in werking op die datum van publikasie.

Keep South Africa Clean

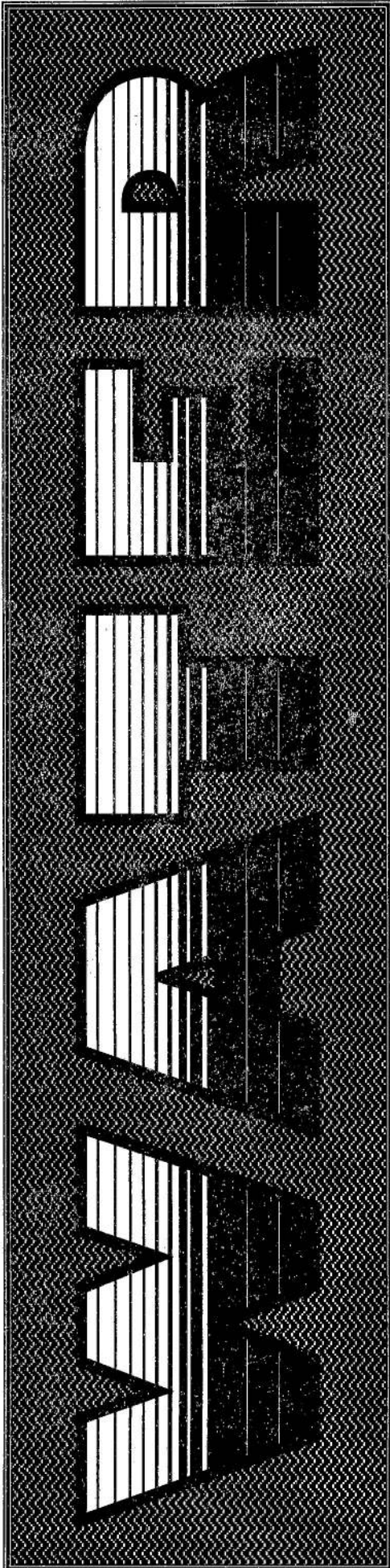


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Hou Suid-Afrika Skoon



Gooi rommel waar dit hoort

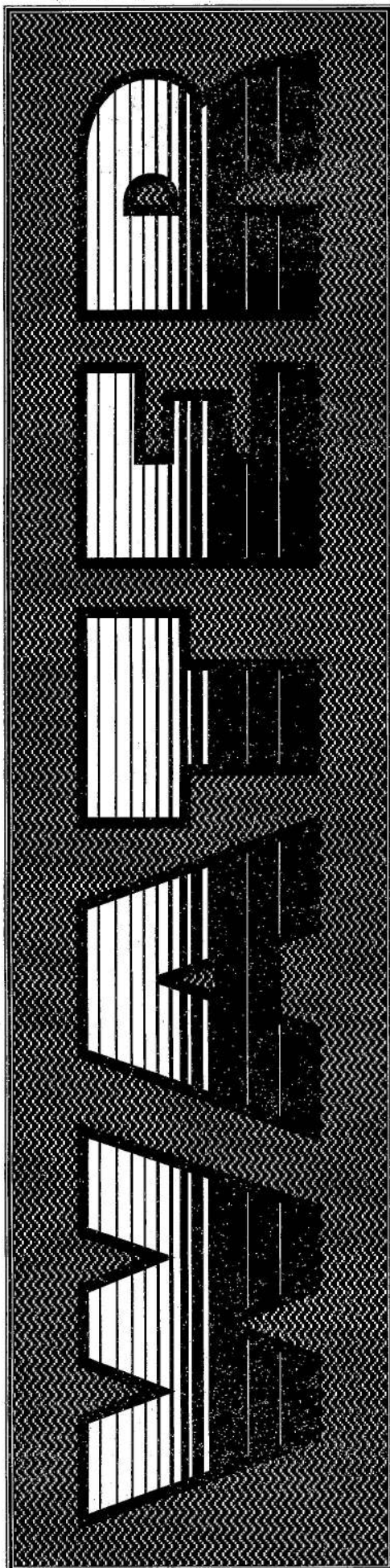


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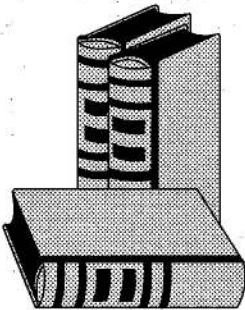
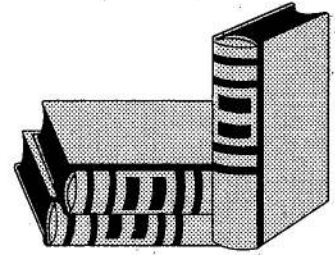
WERK

SPAARSAAM

DAARMEE !



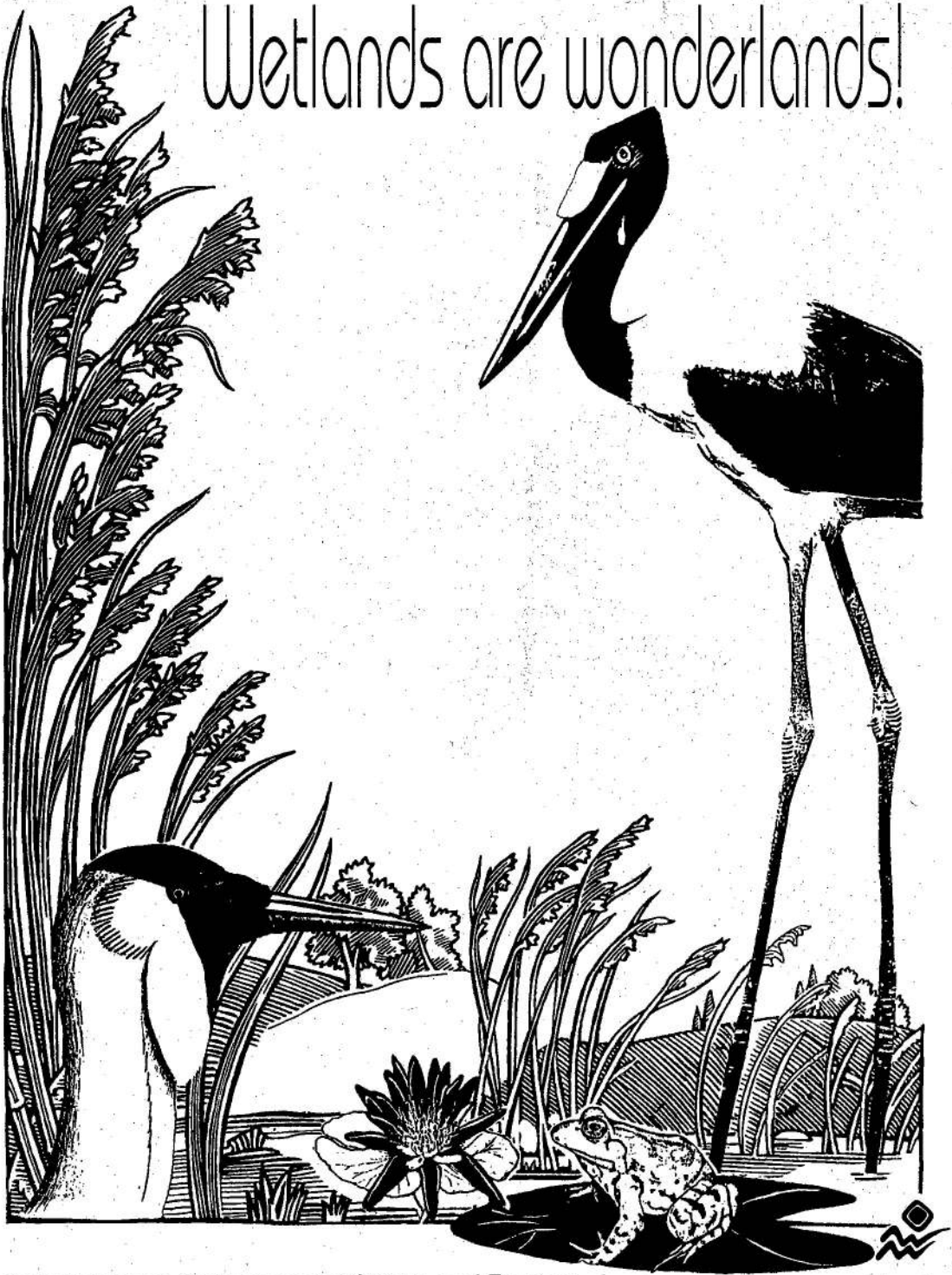
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Department of Environmental Affairs and Tourism
Departement van Omgewingsake en Toerisme

Wetlands are wonderlands!



Department of Environmental Affairs and Tourism

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