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GENERAL NOTICES ALGEMENE KENNISGEWINGS

NOTICE 2754 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 1090 of 1998 (Government Gazette No 18975 of 19 June 1998) and Notice 1193 of 1998 (Government Gazette No 19903 of 3 July 1998), as set out in the Schedule.

ALEXANDER ERWIN

Minister of Trade and Industry

SCHEDULE

KENNISGEWING 2754 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 1090 van 1998 (Staatskoerant No 18975 van 19 Junie 1998) en Kennisgewing 1193 van 1998 (Staatskoerant No 19003 van 3 Julie 1998), soos in die Bylae uiteengesit.

ALEXANDER ERWIN**Minister van Handel en Nywerheid****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. 64

**CLUB 78 TRUST, TRADEFIRST (PTY) LTD,
BROTHERS-IN-ARMS-DEVELOPMENT TRUST,
CHARLES FREDERICK VENTER,
JOSIENA MARIETA ENGELBRECHT,
BELINDA SWARTZ AND OTHERS**

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A1. INTRODUCTION

The Business Practices Committee (the Committee), a statutory body within the Department of Trade and Industry, administers the Harmful Business Practices Act, 71 of 1988, as amended (the Act). The purpose of the Act is to provide for the prohibition or control of harmful business practices, and for matters connected with such practices.

A "business practice" includes, *inter alia*, any type of advertising and a "harmful business practice" is any business practice which, directly or indirectly, has or is likely to have the effect of harming the relations between businesses and consumers, unreasonably prejudicing any consumer or deceiving any consumer.

In terms of section 4 of the Act the Committee may undertake 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. The Committee may, in terms of section 8(1) of the Act, and subject to section 8(2), on its own initiative undertake such investigation as it may consider necessary into any harmful business practice which it has reason to believe exists or may come into existence.

The Committee has wide investigative powers. It may undertake a section 4(1)(c) or a section 8(1)(a) investigation in terms of the Act into the business practices of specific entities or persons. Section 4(1)(c) investigations are known as "informal" investigations and section 8(1)(a) investigations are called "formal" investigations. An informal investigation enables the Committee to undertake 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 informal investigations is not published in the Government Gazette, as opposed to formal investigations which are published. The purpose of an informal investigation is to enable the Committee to make a more informed decision as to whether a formal investigation is required. The Minister of Trade and Industry is not empowered to make any decisions on the strength of an informal investigation. He may do so in terms of a section 8(1)(a) or formal investigation.

A2. THE PARTIES

Two entities and a number of individuals feature prominently in this part of the report, namely Club 78 Trust (Club 78) and TradeFirst 78 (Pty) Ltd (TradeFirst). Club 78 was registered as a trust (IT 3611/97) on 28 April 1997 and allegedly started business during August 1997.

The trustees are of Club 78 were:

Josiena Marieta Engelbrecht (Engelbrecht)
Elsie Johanna Jacoba Monti (Monti)
Johannes Pretorius (Pretorius)
Suzette Schoeman (Schoeman) and
Charles Frederick Venter (Venter).

In original brochures of Club 78 containing four "information modules", the logo "We Promise 'Success and Wealth at Leisure'" appeared. The logo was changed in subsequent brochures to: "We promise 'The Financial Upliftment of Our Nation'".

The directors of TradeFirst were:

Gert Hendrik Bothma
Engelbrecht (Executive Director),
Tersia Jonck
Monti (Director: Information Systems),
Christiaan Lodewikus Pienaar
Pretorius (Director: Franchising),
Schoeman (Director: Accounting),
Belinda Swartz
Leon Herman van Coller and
Venter (Chief Executive Officer).

A3. THE ADVERTISEMENTS OF CLUB 78

Club 78 came to the attention of the Committee through an advertisement that appeared in the December 1997/January 1998 edition of the magazine, "Your Own Business". The advertisement consisted of two full pages, copies of which are attached as annexure "A". A similar advertisement also appeared in the "You" magazine of 13 February 1998. A copy of this advertisement is attached as annexure "B".

The title of the advertisement was as follows:

WIN • WIN • WIN
Lots of BIG Cash Prizes • Incredible Benefits

YOUR FREE FINANCE
& TAX ADVISOR

YOUR FREE LEGAL
ADVISOR

GOLD

SILVER

BRONZE

Under "2" of the headings Gold, Silver and Bronze it was stated:

(Gold) 2.*Prizes - Win **R100 000** to buy or build your own home!

(Silver) 2.*Prizes - Win **R50 000** to buy or build your own home!

(Bronze) 2.*Prizes - Win **R25 000** to buy or build your own home!

Investigating officers (officials) of the Committee, appointed in terms of section 6 of the Act, held discussions with Engelbrecht and Swartz on 9 February 1998 at the offices of Club 78 at 27 Goldman Street, Florida. On 12 February 1998 the Committee resolved to undertake an informal investigation into the business practices of TradeFirst and Club 78.

A4. THE INFORMAL INVESTIGATION

Officials again met with representatives of Club 78 and TradeFirst on 17 February 1998. The persons representing Club 78 and TradeFirst were Venter, Engelbrecht, Monti, Swartz and Pretorius. The representatives were informed by the officials that they could address the Committee if they so wished. Venter, the chief executive officer of TradeFirst, was the spokesman.

The following is an excerpts quoted from a document entitled "The Club 78 Trust - Business Plan", dated 16 May 1998, and obtained from Venter:

"In November 1992 Charles (Venter) was involved in an accident which almost ended his life. He fell off a flight of stairs and was knocked unconscious for 2 days. The medical staff at the Garden City Clinic in Johannesburg didn't have much hope of him recovering. When returning to work early in 1993, he has experienced problems at work. He had poor concentration and difficulty motivating himself. This resulted in extreme difficulty concluding arrangements, which was his main function at the bank. A neurologist advised the bank to either board Charles off as permanently unfit or to demote him to a lower level at which he could function, and allow him the opportunity of perhaps 'working his way up' if and when he recovers in future.

In January 1995 Charles started his own advertising business. He franchised his own publication, Ad Space, and by July 1995 he established 8 (eight) franchises in the Gauteng Region. He sold the business at the end of 1995.

In January 1996 Charles started to develop the Club 78 concept, then originally baptised the Status Syndicate. In February 1997 Charles and the Status Syndicate was exposed to very negative press reporting, resulting in the change of name to Club 78. Charles was then the MD of the company International Business Development Corporation (IBDC), but due to the negative press exposure, Charles also changed the name of that company to TradeFirst 78 (Pty) Ltd.

Charles is currently the Chairman of Club 78; the Chairman of the Board of Trustees of The Club 78 Trust; the Managing Director of TradeFirst 78 (Pty) Ltd; the first trustee of the KC Trust (a project development trust); the first trustee of the Brothers-in-Arms trust (a capital development trust) as well as the first trustee of the Club 78 Trust, the umbrella and foundation of the Club 78 concept" (end of quote).

In another document entitled "The Club 78 Concept" the following is stated:

"This new innovation will naturally and very obviously change the lives of the people who avails (sic) themselves to this unique concept of Charles Venter and his associates, team members and major investors by:

1. Causing a financial revolution;
2. Enriching the masses by the sheer congruence of this scheme;
3. Creating an element of chance through his winning systems and/or 'lotteries';
4. Educating the masses;
5. Putting South Africa on par with other, better respected, economies, ie. Canada, Australia, Europe and the USA.

Thus, definately (sic), Club 78 will soon be on the lips of all the people of our country and can become an exciting vehicle for its members, investors and more recently its franchisees, to achieve a better future and better living standards".

A4.1 The scheme

The exposition of the scheme that follows is based on what was told to the officials by the representatives of the two entities and from documents that were made available. Allegedly the salient features of Club 78 and TradeFirst's operations were as follows: Club 78 offered three classes of membership, namely Gold, Silver and Bronze and the monthly membership fee was R114, R57 and R28.50 respectively. Dependants of the "principal" members could become "minor" members at a monthly cost of R24, R12 and R6 per respectively. The first month's membership fee was regarded as a "registration fee".

Membership fees were paid into the account of Club 78 and were disbursed as follows:

- 45 per cent retained by Club 78. (see 4.1.1),
- 33 per cent paid into the General Trust (see 4.1.2),
- 2 per cent paid into the Education Trust (see 4.1.3)
- 5 per cent earmarked for administration (see 4.1.4) and
- 15 per cent was paid to TradeFirst 78 (Pty) Ltd.

The officials did not inspect the accounting books of Club 78 or TradeFirst to ascertain if the disbursement as set out above were effected.

A4.1.1 Club 78

Club 78 retained 45 per cent of the membership fees. Two-thirds of this amount (or 30 per cent of the total membership fees) was allocated to the monthly cash prizes and the remaining one-third (or 15 per cent of the total membership fees) was earmarked to be paid to an insurer for funeral cover for its members. Venter said (February 1998), that the funeral cover was still being negotiated with Rentmeester Versekeraars.

A4.1.2 General Trust

Thirty-three per cent of the membership fees was channelled to the "General Trust". The sole purpose of the "General Trust" was to provide loans to the members of Club 78. Cash loans up to R10 000 could be granted to Gold members, R5 000 to Silver members and R2 500 to Bronze members. The annual interest rate on these loans was 12 per cent. The granting of the loans was subject to a year's uninterrupted membership. Housing loans could also be granted. The maximum loan would have been R100 000 at an annual interest rate of 3 per cent. Business loans, a maximum of R200 000 at 12 per cent interest per annum, could also be granted.

A4.1.3 The Education Trust

The "Education Trust" received 2 per cent of the total membership fees. Bursaries could be granted to members or their dependants after two years' membership. The first bursaries should have been awarded during July 1999 and were not refundable. The granting of student loans at an annual interest rate of 7 per cent was also envisaged.

A4.1.4 Administration

Five per cent of the total membership fees collected was used to pay for advertisements and towards publishing an in-house magazine, called "*Club 78 Magazine*". By February 1998 three editions of this magazine were published, namely Sept/Oct 1997, November 1997 and December 1997/January 1998.

A4.1.5 TradeFirst's 15 per cent

TradeFirst 78 was responsible for the management of Club 78 and received 15 per cent of the total membership fees as remuneration.

A4.1.6 Cash prizes

Club 78 members could win monthly cash prizes and consolation prizes. Gold members could win R10 000, Silver members R5 000 and Bronze members R2 500. There were also a number of consolation prizes, R500 for Gold, R250 for Silver and R125 for Bronze.

The number of prizes was dependent on the number of members. For example, for every 1 000 members of each class, namely Gold, Silver or Bronze, three prizes in each class would have been awarded. Thus, if Club 78 had 333 Gold members, one prize of R10 000 would have been available. In other words, R30 of each Gold member's membership fee could be regarded as a contribution towards the cash prizes. Assume, for example, that Club 78 had 400 Gold members. As there were more than

333 members, there would have been an excess amount of R2 010 available $[(400-333) \times R30]$. This R2 010 would have been paid to members as four consolation prizes of R500 each. The August, September and October 1997 prize winners were announced in the November 1997 and December 1997/January 1998 Club 78 Magazine.

Only members who had fully paid-up their monthly subscription fees were eligible for the cash draw. They received their draw numbers by post and it was said that the draw took place in the presence of auditors. The prize awards were subject to the correct answer of a general knowledge question.

The Committee did not consider the legality or otherwise of this apparent lottery. As stated above the purpose of the Act is to provide for the prohibition or control of harmful business practices. A breach of a particular statute is the responsibility of the authorities who administer that statute.

A4.1.7 Other "benefits"

Club 78 rendered and intended to render a number of services, such as a tax and financial advice network, free access to legal advice and access to institutions at discounted rates to its members. The tax, financial and legal advice was available by telephone only. During the discussions it was pointed out to Engelbrecht and Swartz that the very prominent subheadings: "Your free finance & tax advisor" and "Your free legal advisor" could give the impression that the services were of a personal nature. This would be misleading because these "services" were available by telephone only. It was said that these services were provided by an entity who in turn had contracts with a firm of chartered accountants and a firm of attorneys. Discounted prices were also being negotiated with a number of retailers and service providers. Members were entitled to the funeral benefits after three months' membership.

A4.1.8 Subagents

Club 78 appointed a number of subagents or franchisees to recruit members for the Club. Agents were paid between R10 000 and R30 000 to become agents and were entitled to 80 per cent of the registration fee and 2 per cent of the monthly subscription fees of members paid by members. The franchisees were in Benoni, Cape Town, Durban, Pretoria and Randburg.

A4.2 The letter of the Association of Advertising Agencies

Venter produced a letter that TradeFirst received from the Association of Advertising Agencies (AAA) as justification that TradeFirst did not "contravene" the Act. In the letter dated 1 July 1997, the AAA stated, *inter alia*:

"Note: We have checked several acts, inter alia Banks Act, Gambling Act, Business Practices Act and believe that the adverts conform to them".

The reference to the Business Practices Act is of course erroneous, as the correct title of the act is the Harmful Business Practices Act. On 10 January 1998 the Committee wrote to the AAA, pointing out that the Harmful Business Practices Act is an enabling act and that it is not possible for the AAA to express an opinion as to whether or not a particular advertisement constitutes a harmful business practice in terms of the Act. The Committee itself only expresses an opinion on whether a particular business practice is a harmful business practice, in terms of the Act, after undertaking an investigation into the particular business practice.

A4.3 Other matters

The different prizes that could be won by Gold, Silver and Bronze members to buy or build their own homes was not mentioned to the officials at the meeting held on 9 February 1998 between officials and representatives of the two entities. At a later stage Venter said that the scheme, as set out above, was correct. Initially the idea of Club 78 was to award several prizes to members to build their own homes. However, in the November issue of the magazine "Club 78," a "referendum" was held. It was stated in the announcement made in the magazine:

"Our CHANCE benefits, the monthly cash prizes as well as the housing prizes, have come under increased scrutiny at the highest levels. We have identified 2 different 'schools of thought'.

1. Housing loans There are those who reason that MORE members, will, in the long term, benefit from housing loans rather than housing cash prizes because of: low interest rates (3% per annum), and the fact that the money for housing loans comes back into the Club 78 Trust which means that more loans may be awarded to more members from time to time.

2. Housing cash prizes The Club's constitution, with regard to the housing benefit, states that members can 'win' housing cash prizes that can be used for buying a house or settling an existing housing bond. There are those who reason that they prefer to stand the chance to 'win' a house, even though they might never experience the LUCK of the draw".

Members were requested to cast their "votes" for either the housing loans or the housing cash prizes. Venter said that more than 90 per cent of the members responded and that they voted with an overwhelming majority for the housing loans. Venter said that future advertisements would state that members may be considered for housing loans up to R100 000.

A4.4 Evaluation of the scheme

It was stated in section 4.1.2 above that the purpose of the General Trust was to provide loans to the members of Club 78. It was also mentioned that 33 per cent of the total membership fees was paid into the General Trust to provide for loans to the members.

The total membership fee of a Gold Member was 12 times R114 or R1 368 per annum. The money earmarked for the General Trust was thus 33 per cent times R1 368 or R451.44 per annum per Gold member. If there were to be 1 000 Gold members, the General Trust would amount to R451 440. This would just cover two business loans of R200 000 each at 12 per cent or four housing loans of R100 000 each at 3 per cent per annum.

These lucrative interest rates probably attracted many members, but only two out of every 1 000 members (0.2 per cent) would have qualified for the "business loans" or four members out of every 1 000 members (0.4 per cent) would have qualified for the "housing loans". Many members would probably have queued for these interest rates, yet the funds available would only allow for two to four lucky members out of 1 000. The fact that the overwhelming majority of the members voted for the "housing loans" rather than the "housing prizes" is evidence of the keen interest in the loans. Obviously many people also joined the scheme to win the monthly cash prizes.

Engelbrecht said that the loans would be "... up to R100 000" and that many more people would qualify for loans less than R100 000. This argument does not hold water. If the housing loans were on average R10 000, only 45 members out of every 1 000 (4.5 per cent) would qualify for loans.

Venter said that one must remember that members joined the Club for three reasons, namely:

- the monthly cash prizes,
- the low interest rates on loans and
- the fact that discounted prices would be available to members.

The monthly cash prizes were not debated with Venter, but he was told that low interest rates would help only a limited number of people because the available funds were severely limited. "Cards" were issued to members that would enable them to buy products and services at various retailers at discounted prices. Venter said that Club 78 planned to enrol "millions" of members and this would give them the leverage to bargain for discounted prices. On 17 February 1998 the Club had 1 467 members who regularly paid their membership fees. Club 78 at that time had agreements with five suppliers who would give "specials deals" to Club 78 members. These were allegedly Canterbury of New Zealand, CompuCopy, Daewoo, Autoplus and Leisure force. Venter and the others present seemed to be unsure whether the card would be a debit card or simply a card to denote membership of Club 78.

It was pointed out to the management that the two percent of the membership fees earmarked for the "Education Trust" would provide R27.36 per member per annum (R1 368 times 0.02) or R27 360 per 1 000 members. This amount would, most probably, not satisfy the demand for bursaries. The amount certainly would not provide for "Educating the masses".

A4.5 The response of TradeFirst dated 20 February 1998

The Committee received a letter dated 20 February 1998 from TradeFirst. The letter was signed by Venter. The following is a direct translation from the Afrikaans of excerpts from this letter:

"Firstly we want to thank you for the interest that you showed in our organisation. As a South African organisation it is especially important for us to be dutiful ("gehoorsaam") to advice or admonitions ("vermaninge") of the authorities of our country. We regard the Business Practices Committee's informal investigation into our business practices in a very serious light. We also take note of the admonitions of X (X is an official of the Committee) with reference to a possible misrepresentation and/or misleading with regard to our national advertising campaign as well as the viability of certain benefits accruing to Club 78 members. ... In closing I wish to emphasize that we have the utmost respect for the opinion of the Committee, and because of this reason we, on our part, will endeavour to obtain the approval and support of the Committee".

A5. THE MEETING WITH THE COMMITTEE ON 18 MARCH 1998

On 18 March 1998, Venter, Engelbrecht, Swartz and Pretorius addressed the Committee about Club 78. Venter conceded that their scheme had certain shortcomings. He said that the management never realised that only a very small percentage of the members would qualify for especially the "housing" benefits. He said that aspects of the scheme it had been revised. The Committee resolved that officials again visit Club 78 to acquaint themselves with the revised scheme and to report back to the Committee.

A6. DISCUSSIONS WITH TRADEFIRST/CLUB 78 ON 6 APRIL 1998 AND SUBSEQUENT EVENTS

Club 78 was again visited by officials of the Committee on 6 April 1998 to discuss the revised scheme. Venter, Swartz and Pretorius were present at these discussions. Venter said that due to the preliminary investigation by the Committee, the scheme had been revamped as from 1 March 1998. All the members of the "old" scheme were informed of the changes to the scheme and became members of the "new" scheme. The Club still offered the three classes of membership at the same monthly membership fee.

In section 4.1 the disbursement of the membership fees was explained. Only two changes were affected under the revised scheme, namely the 33 per cent paid into the General Trust under the old scheme was adjusted downwards to 30 percent and the 2 per cent paid into the Education Trust was increased to 5 per cent.

The cash loans to members were reduced from R10 000 to R5 000 for Gold members, from R5 000 to R2 500 for Silver members and from R2 500 to R1 250 for Bronze members, all at an annual interest rate of 12 per cent. These loans were subject to a year's uninterrupted membership. Under the revised scheme, housing loans "may" be granted and Venter called these loans "bridging finance". He explained that this "bridging finance" could be regarded as a deposit or contribution to a deposit on a house. The bridging finance had to be redeemed at the end of three years. The maximum loan would be R10 000 at an interest rate of 3 per cent per annum. Business loans or "bridging finance", a maximum of R10 000 at 12 per cent interest per annum, may also be granted.

Bursaries were now available after one year's membership, the first to be awarded during July 1999 and were not refundable. Student loans may also be granted at an interest rate of 7 per cent per annum.

It now seemed that the funeral cover was provided by Rentmeester Insurers. On 3 April 1998 an amount of R9 543.85 was paid into the bank account of Rentmeester Insurers by TradeFirst. This payment was made for 409 Gold Members at R16 per member, 357 Silver Members at R8.25 per member and 13 Bronze Members at R4.20 per member.

Club 78 said that they now only had one advertisement. This advertisement is attached as annex "C". The alleged aim of this advertisement was to create interest among consumers and those interested were then invited to respond "For more information about our other benefits and how to subscribe". At the end of the advertisement it is stated:

"The Club 78 concept aims at facilitating the general upliftment of the living standards of its members by offering an incredible range of benefits to its members. These benefits include aspects such as the winning of handsome cash prizes on a monthly basis; bridging finance on housing loans and business loans; personal loans at low interest rates; to buy consumables, furniture and appliances at discounted prices by means of a club card; to provide funeral cover for the whole family; to have access to a tax and financial advice network as well as legal advice network; study bursaries on applications may annually be awarded, on merit, to members only".

Under the "old" scheme it was calculated that for every 1 000 Gold Members only two business loans of R200 000 each at 12 per cent would be available or four housing loans of R100 000 each at 3 per cent per annum. Under the "new" scheme the situation was as follows, again using Gold Members as an example because the majority of members opted for the "Gold" version.

It was mentioned that 30 per cent of the total membership fees was now paid into the General Trust to provide for loans to the members. The total annual membership fee of a Gold member was 12 times R114, or R1 368. The money earmarked for the General Trust is thus 30 per cent times R1 368 or R410.40 per Gold member per annum. If there were to be 1 000 Gold members, the General Trust would amount to R410 400 per annum. This amount would be enough for either:

Personal loans of R5 000 each, at 12 per cent per annum, for 82 Gold Members or 8.2 per cent out of 1 000.

Bridging finance for homes loans of R10 000 each, at 3 per cent per annum, for 41 Gold Members, or 4.1 per cent out of 1 000.

Bridging finance of R10 000 each, at 12 per cent per annum, for starting a business, for 41 Gold Members, or 4.1 per cent out of 1 000.

These lucrative interest rates would probably attract many applicants, but only 8.2 per cent would obtain "personal" loans, 4.1 per cent would receive the "bridging finance" for home loans and another 4.1 per cent would receive "bridging" finance for "business" loans. Should 82 personal loans be granted to Gold Members per annum, no funds would be available to provide any "bridging" finance or personal loans for the remaining 918 members. Again, many people would join the scheme to win the monthly cash draw of R10 000. Many more, however, would probably join the scheme to obtain the various loans. The overwhelming majority will be disappointed.

Venter was asked how it is possible to offer loans at an interest rate of 3 per cent per annum. He was unable to explain how the interest rates were possible and he could not produce his working papers to show how these rates were calculated. Pressed for an explanation of the aspects he considered in his calculations, a meaningful, intelligible and lucid response was unforthcoming from him.

Five percent of the membership fees earmarked for the "Education Trust" would provide R68.40 per member per annum (R1 368 times 0.05) or R68 400 per 1 000 members. This amount would, most probably, not satisfy the demand for bursaries.

Club 78 said that they now had agreement with the following suppliers who would give specials deals to Club 78 members.

Auto Plus - Mr Speedy, Mr Tyre, Mr Exhaust, Venter & Glider Trailers
Canterbury of New Zealand (clothing)
CompuCopy (office machines, including computers)
Daewoo Motors Valhalla (special interest rates)
Dubun Shoe Repairs (repairs to leather products)
Huandai (special interest rates)
Leisure force (special tariffs - holiday accommodation)
Price Forbes (short term insurance)
Pretium (telephone help-line re financial and legal matters) and
Trade Centre (card issued to members on demand).

This short list of suppliers can hardly be regarded as part of the "incredible range of benefits"

During previous discussions officials were told on 17 February 1998 that the Club had 1 467 members who regularly paid their membership fees. Yet, on 3 April 1998 Club 78 only paid the dues of 779 (409+357+13) members to Rentmeester. Remember that only members who have fully paid-up their membership fees were eligible for various "benefits", such as funeral cover, the monthly prizes and the loans.

A more comprehensive investigation would probably have revealed a very high rate of attrition regarding the number of members. Those that could not continue with their monthly membership fees contributed to the pockets of Venter and his associates. Those that did continue paying their membership fees stood a very slim chance to obtain loans, win prizes and partake in the other "incredible range of benefits".

On 28 April 1998 Venter, in a letter to the Committee asked for 14 to 21 days

"... to reach an agreement with your offices, before notice of the investigation is published in the Government Gazette. ... We must inform you that should this notice be published we will defend the issue at the highest levels".

On the same date, 28 April 1998 the Committee advised Venter that it would meet again on 14 May 1998. TradeFirst was given the opportunity to come to an arrangement ("skikking/ooreenkoms") with the Committee on that date.

A7. THE MEETING WITH THE COMMITTEE ON 14 MAY 1998 AND EVENTS UP TO 18 JUNE 1998

Venter, Engelbrecht, Swartz and Pretorius addressed the Committee again on 14 May 1998 about the business practices of Club 78. The parties now alleged that they had contracts in the pipeline which would ensure that Club 78 would have access to "... millions of Rands". The Committee resolved that a formal investigation be undertaken into the business practices of Club 78 but that the club be given until 29 May 1998 to provide the Committee with copies of these contracts that were "... in the pipeline.

On 26 May 1998 TradeFirst (Venter) wrote to the Committee that

"...since we have not been able, to-date, to finalize any such agreements, we have decided to permanently suspend/cancel the benefit which makes provision for personal loans (at low interest rates) for members of Club 78".

Club 78 thus failed to provide the Committee with copies of the "contracts" by 29 May 1998. TradeFirst furnished the Committee with a letter dated 9 June 1998 which was evidently sent to Club 78 members. The following was stated in this letter:

"Dear Club 78 member

We herewith wish to communicate a "change of direction" with regard to the benefits available to you the member. "The announcement of new benefit structure" is attached hereto. We believe it is important to note that the "Personal Loans Benefit" will permanently be terminated as from 1 June 1998. This issue was forced by the South African Business Practices Committee (BPC). In future we may avail members to a personal loans facility only if and when monies will be made available for this purpose by private investors. This may however give rise to increased rates".

On 17 June 1998 the Committee received a fax from TradeFirst. In this fax it was stated:

"This letter serves to confirm that we now have finalised negotiations with a third party organisation who will be willing to provide finance for members of Club 78 from date of registration as member (Gold, Silver or Bronze). An official "typed" contract will be provided on Friday 19 June 1998.

We herewith request that the committee reconsider their decision to place a notice of our company in the government newspaper. Such notice will cause infinite problems for our company and if such problems cannot be justified by the committee, we intend to take further action".

Attached to this fax was the following handwritten letter from "Royal Finance" to the Managing Director, TradeFirst:

"As per our discussion on the 10th of June and our telephonic discussion today we are pleased to inform you that we will assist with the structuring of your clients finances.

Please note that we will charge your clients a fee upfront against application. Also note that the structuring is done through our head office in Randburg. The company been (quote) called Finsol.

Please excuse the hand writing as we will have it typed up for you by Friday due to the urgency at your request".

Upon receipt of the letter to TradeFirst from "Royal Finance", an official of the Committee called Engelbrecht and informed her that charging clients "... a fee upfront against application" of a loan was a transgression of Government Notice 777 which was published in the Government Gazette of 18 August 1995. "Royal Finance" was advised accordingly.

On 18 June 1998 the Committee received a complaint from an attorney, claiming that his client, a well-known financial institution, granted personal loans of about R800 000 to directors of TradeFirst. It was alleged that these loans were granted on the strength of incorrect information supplied by some of the applicants. The attorney suggested that the Committee investigate the business practices of TradeFirst.

A8. NOTICE OF THE FORMAL INVESTIGATION

Notice of the formal section 8(1)(a) investigation into the business practices of TradeFirst 78, Club 78, Venter and his associates was published under Notice 1090 in the Government Gazette No 18975 of 19 June 1998. This Notice read as follows.

"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 TradeFirst 78 (Pty) Ltd and any director, Club 78 Trust (IT 3611/97) and any trustee,

Gert Hendrik Bothma (ID 580609 5067 000),
Josiena Marieta Engelbrecht (ID 550711 0180 089),
Tersia Jonck (ID 571208 0088 003),
Elsie Johanna Jacoba Monti (ID 590213 0094 008),
Christiaan Lodewikus Pienaar (ID 640126 5097 083),
Johannes Pretorius (ID 390915 5123 000),
Suzette Schoeman (ID 591112 0070 084),
Belinda Swartz (ID 651228 0050 004),
Leon Herman van Coller (ID 620411 5037 006), and
Charles Frederick Venter (ID 600708 5157 088)

and any employee, agent and/or representative of any of the afore-mentioned relating to the activities of TradeFirst 78 (Pty) Ltd and/or Club 78 Trust.

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.
Tel: (012) 310 9562 Ms L van Zyl [Ref. H101/20/10/8(98)]".

After the publication of the section 8(1)(a) investigation, an official called Engelbrecht. She agreed that she and Venter would meet with officials of the Committee at 09h15 on 3 July 1998. This appointment was confirmed on 2 July 1998. Venter and Engelbrecht did not turn up for this meeting. During the afternoon on 3 July 1998 the attorney for TradeFirst called an official of the Committee. The attorney said that he advised his clients to apply for the voluntary sequestration of TradeFirst because TradeFirst was "... technically insolvent". If TradeFirst was technically insolvent it severely prejudiced its clients.

An official of the Committee called the attorney on 8 July 1998 and suggested to him that a meeting be arranged with himself, Venter and officials of the Committee. There were outstanding issues that the officials wanted to discuss with Venter. On 15 July 1998 the attorney informed the official that Venter was not interested in the *audi alteram partem* rule.

The Committee intended, during the course of the section 8(1)(a) investigation, to inspect the accounting books of Club 78. It is clear from the events described above that the Committee was not in a position to do so. The Committee can, therefore, not express an opinion as to what happened with the monies collected by Venter and his associates from the "club members", "franchisees" and "investors".

A9. YET ANOTHER SCHEME REVEALED

After the notice of the section 8(1)(a) investigation into the business practices of TradeFirst 78, Club 78 and Venter and his associates was published on 19 June 1998, another of Venter's schemes emerged. The Committee received a complaint from a consumer who "invested" R100 000 with TradeFirst 78 (Pty) Ltd after he responded to an advertisement in the Afrikaans daily, "Die Beeld". The in-laws of the complainant also "invested" R10 000 with TradeFirst.

A brochure, faxed to the Committee by the complainant, stated:

"Tradefirst 78 invites the public to offer to purchase Trust Capital Participation Units (TC-Units) as a capital investment, consisting of capital interest as part of the Club 78 trust - for more details please contact us or come into your local tradefirst office" and "MARKET RESEARCH has shown that the CLUB will recruit at least 1.7 million members in 12 months. Should CLUB 78 recruit only 50% of these market projections, then the Club will have 850 000 members in 12 months".

The members referred to are the Gold, Silver and Bronze members discussed under section A4.1. The brochure further explained that the 850 000 members to be recruited within 12 months would ensure a total turnover, after VAT, of R445 500 000 per annum for Club 78. This is made up as follows:

172 500 Gold members at R100 per month	R17 250 000
217 500 Silver members at R50 per month	R10 875 000
360 000 Bronze members at R25 per month	R 9 000 000
Total per month	R37 125 000
<u>Total per annum</u>	<u>R445 500 000</u>

It was stated in section A4.1.5 above that TradeFirst78 (Pty) Ltd would receive 15 percent of the total membership fees paid to Club 78 as a management fee. TradeFirst would thus have received 15 percent of R445 500 000 per annum, or R66 825 000, as a management fee. The net profit of TradeFirst 78 was calculated as follows:

Member contributions'	R66 825 000
Overheads (including salaries)	R32 744 250
Profit before tax	<u>R34 080 750</u>
Less: Company tax @ 35%	R11 928 262
Less: STC @ 12.5% (for tax-free dividends)	<u>R4 260 094</u>
Profit after tax	<u>R17 892 394</u>

The "Trust Capital Participation Units (TC-Units)" were available to the public at R2 500 each. Apparently 40 000 of these "TC-units" were available because the brochure stated "400 units (10%)". A consumer ("investor") who bought 40 "TC-units" at a total price of R100 000 (R2 500 times 40), would have been entitled to 1 per cent TradeFirst's profit of R17 892 394, that is R178 923, and assuming that 850 000 members were canvassed as set out above. This is a return of 78.9 per cent per annum.

It is not clear what Venter had in mind with the "Trust Capital Participation Units" were. The monies obtained from the sale of these "units" were certainly not earmarked as own capital for TradeFirst. In all possibility the monies thus obtained found its way into the pockets of Venter and his associates.

The brochure also stated that "advertising units", called "A-Units", were available. The holders of these "A-Units" would also share in the profits of TradeFirst. It was not clear from the brochure exactly what the "A-Units" were.

A10. THE HARMFUL BUSINESS PRACTICES

The demand for housing in South Africa substantially exceeds the available supply. Consumers who suffer from the shortage of housing are consequently vulnerable to entrepreneurs and others who obtain money from them on the promise of providing them with prizes of "R100 000 buy or build your own home" or promises of "housing loans" at an annual interest rate of 3 per cent, or "bridging finance" to buy homes.

It was not possible to conduct a survey among Club 78 members to ascertain why they became members of the "club". The fact that the overwhelming majority of the members voted for the "housing loans" rather than the "housing prizes" is evidence of the keen interest in the loans. The members were totally unaware that they had a very slim chance (0.04 percent) to obtain the loans. One can also not take for granted that these loans would have been granted by Venter and his associates. The members that joined Club 78 were misled by the advertisements into believing *inter alia* that they would be, initially, in a position to win prizes to buy homes. This is a harmful business practice. After the "referendum" they were again misled into believing that they would obtain housing loans up to R100 000 at an annual interest rate of 3 per cent to buy homes. The harmful business practice was repeated. The appointment of "franchisors" or agents to canvass members without doubt resulted in more consumers being misled.

Consumers who bought "Trust Capital Participation Units" were prejudiced because they lost their "investments". Any investor investing in a company carries a risk that the sum invested could be lost or reduced. The amounts handed over to Venter and his associates as a result of their advertisements, were not investments.

B. BROTHERS-IN-ARMS DEVELOPMENT TRUST

B1. THE ADVERTISEMENT AND THE PARTIES

The following advertisement appeared in the Afrikaans morning newspaper "Die Beeld" of 27 May 1998. The copy of this advertisement was directly translated from the Afrikaans into English. The Charles and Belinda mentioned in the advertisement were Charles Venter and Belinda Swartz. Both these individuals were involved with TradeFirst (Pty) Ltd and Club 78 Trust.

IT IS UNBELIEVABLE!

R55 000 - This is what it would cost to become a millionaire within only 5 years.
This opportunity is limited to 50 people.

R65 000 - A further R65 000 investment will make provision for a monthly income of R5 000 over a 5 year period, as well as an annual average dividend of R25 000.

R1 000 000 - Invest R1 000 000 in this development trust and receive R9 000 monthly over a 4 year period as well as R18 000 000 after 5 years.

Call immediately to arrange for a personal consultation. Charles or Belinda at
(011) 472-7290/1/2/3 (27 Goldman Street, Florida)

At that time (May 1998) the Committee was undertaking investigation in terms of section 4(1)(c) of the Act into the business practices of TradeFirst, Club 78, Venter and others, including Swartz.

B2. THE DISCUSSION WITH VENTER AND SWARTZ ON 8 JUNE 1998

Officials of the Committee discussed the advertisement that appeared in "Die Beeld" with Venter and Swartz on 8 June 1998 at their offices at 27 Goldman Street, Florida. This was the same address where TradeFirst and Club 78 operated from. Venter handed a number of documents about the "Brothers-in-Arms Development Trust" to the officials. The following is an excerpt from an "Information brochure" about "THE AIM AND OBJECTIVES" of the Trust.

"The main objective of this development trust it to create an opportunity for selected individuals/businessmen/entrepreneurs to achieve millionaire-status, through active involvement/active participation, in only 5 (five) years.

Active participation will be measured in the form of monthly conferences i.e. "Think scrums"/"Brain Storm Sessions".

It should be the main aim of each member/beneficiary to "Roll" the monthly trust balance (the portion of 50% allocated for buying-and-selling projects) with more than 10% in 30 (thirty) days. Should the minimum monthly "Roll" of at least 10%

be achieved over a 5 year (60 months) period, then each participant will have achieved the ultimate goal ... MILLIONAIRE-STATUS.

The Trustees undertake to achieve a 10% rollover of the monthly Roll - Capital - Balance in cooperation with the beneficiaries.

OTHER BENEFITS

1. Monthly Honoraria payments - Minimum R500
2. Incentive Bonuses - up to R30 000 pm.
3. Annual Bonuses:
 - R10 000 (1st year)
 - R20 000 (2nd year)
 - R30 000 (3rd year)"

Venter again did most of the talking. His explanation of how the "trust" worked was rather garbled. He did not want to explain how it was possible to achieve the returns stated in the advertisement. He was concerned that his "secret" would become known. Venter told the officials that "... within five years I will take over the banking industry in South Africa". When asked whether he was serious about this statement, he said "Yes".

An official told Venter that the Committee would probably consider a section 8(1)(a) investigation into "Brothers in Arms Development Trust" at its next meeting. The officials told Venter and Swartz that they could address the Committee if they wished to do so. This invitation is extended to individuals as a matter of course during all enquiries and investigations. Venter said that he would welcome a formal investigation. He was acquainted with the procedures of the Act because he and some of his associates addressed the Committee about TradeFirst and Club 78.

B3. NOTICE OF THE FORMAL INVESTIGATION

On 18 June 1998 the Committee resolved to undertake a section 8(1)(a) investigation into the business practices of Brothers in Arms Development Trust, Brothers in Arms Trust, Belinda Swartz, Charles Frederick Venter and any employee, agent and/or representative of any of the aforementioned relating to the activities of Brothers in Arms Development Trust and/or Brothers in Arms Trust. The following notice appeared under Notice No 1193 in Government Gazette 19003 of 3 July 1998:

"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 Brothers in Arms Development Trust, Brothers in Arms Trust and any trustee, Belinda Swartz (ID 651228 0050 004), Charles Frederick Venter (ID 600708 5157 088) and any employee, agent and/or representative of any of the afore-mentioned relating to the activities of Brothers in Arms Development Trust and/or Brothers in Arms Trust.

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.

Tel: (012) 310-9562 Ms L van Zyl [Ref. H101/20/10/8(98)]
Fax: (012) 322-8489".

B4. EVENTS AFTER PUBLICATION OF THE FORMAL INVESTIGATION

On 29 June 1998 an official called Venter but he was not available. The official then spoke to Engelbrecht. She was told that the notice of the formal investigation into Brothers-in-Arms-Development Trust would be published in the Government Gazette of 3 July 1998. She said that she had nothing to do with this Trust but she undertook to convey the message to Venter. She also agreed that she and Venter would meet with officials of the Committee at 09h15 on 3 July 1998 (see A9 above). They did not turn up for this meeting. On 6 July 1998 officials of the Committee received reports that TradeFirst, Club 78 and Brothers-in-Arms Trust have suddenly abandoned their offices. This was confirmed by officials during a visit to 27 Goldman Street on 10 July 1998. This abandonment was done without due notice to clients, whether they were Club 78 members, TradeFirst franchisees or Brothers-in-Arms-Development Trust investors. This indicates a reckless disregard by Venter and his associates of their clients.

Swartz agreed to meet officials at the offices of the Committee on 16 July 1998. She called an official on 15 July 1998 and said that she would not be able to keep the appointment. It was already stated that Venter declined to have any further meetings with the Committee or its officials.

B5. THE HARMFUL BUSINESS PRACTICES

It is not known how many, if any, consumers paid monies to Venter and Swartz to achieve "... the ultimate goal ... MILLIONAIRE-STATUS". The advertisement placed by Venter and Swartz were utterly misleading and constituted a harmful business practice. Venter himself did not know how the "plan" should or would have worked.

C. CONCLUSION AND RECOMMENDATIONS

The plans of Venter and his associates were grandiose and unattainable. His impossible dreams could never have been realised. He and his associates, through the entities Club 78, TradeFirst and Brothers-in-Arms Trust, and possibly others, and their marketing plans, were mechanisms for obtaining money from consumers. This could have started by accident or design. If by design, the plans were outright deceptive and fraudulent. If by accident, Venter built castles in the air, moved into them

and mesmerised his associates into moving in with him. The advertisements placed by Venter and his associates were absolutely misleading and led to an unknown number of consumers losing an unknown amount of money.

Little planning apparently went into the "franchising" part business. A prerequisite for successful franchising is that the franchisor must have in place the following: an existing good name, goodwill, a successful product or service, marketing procedures, expertise, systems and support facilities. Venter and his associates lacked these all or most of these prerequisites. The Franchising Association of South Africa requires, as a condition of full membership, that members are active franchisors who have been in business for a minimum of two years and have a minimum of two franchisees, at least one of whom must be in operation for at least one year. Associate membership is open to companies in business for at least two years and who intend to franchise their existing businesses within the foreseeable future.

Firms of uncertain ability have become active in the franchise market. While entry into the market is to be welcomed, the extent to which the financial interests of consumers may be endangered due to this development, has given cause for concern. Many South Africans have lost and are losing millions of Rands buying unproven franchises or so-called franchises.

Whether by design or accident, the business practices of the parties constitute harmful business practices. These business practices resulted from the advertisements placed by the parties concerned. There are no grounds justifying the practices in the public interest. It is accordingly recommended that the Minister under section 12(1)(b) of the Act declares unlawful the business practice whereby TradeFirst 78 (Pty) Ltd and any director, Club 78 Trust (IT 3611/97) and any trustee, Brothers-in-Arms Trust and any trustee,

Gert Hendrik Bothma (ID 580609 5067 000),
Josiena Marieta Engelbrecht (ID 550711 0180 089),
Tersia Jonck (ID 571208 0088 003),
Elsie Johanna Jacoba Monti (ID 590213 0094 008),
Christiaan Lodewikus Pienaar (ID 640126 5097 083),
Johannes Pretorius (ID 390915 5123 000),
Suzette Schoeman (ID 591112 0070 084),
Belinda Swartz (ID 651228 0050 004),
Leon Herman van Coller (ID 620411 5037 006), and
Charles Frederick Venter (ID 600708 5157 088),

and any employee, agent or representative of the businesses in which the parties have an interest, in the course of business:

- (a) place any advertisement or type of advertisement in any advertising medium whatsoever in which any returns or monetary rewards are promised or implied and/or

- (b) verbally promise others or imply to others that they could achieve any returns or monetary rewards and/or
- (c) directly or indirectly invite the public to buy franchises; and/or
- (d) receive funds from franchisees and/or
- (e) directly or indirectly invite the public to make investments; and/or
- (f) receive investment funds from investors for management or reinvestment of such funds on the behalf of the investor.

(C) and (d) above will not be regarded as harmful business practices should the parties comply with the conditions of full membership or associate membership of the Franchising Association of South Africa.

It is recommended that the Minister prohibits the parties from:

- (a) placing any advertisement or type of advertisement in any advertising medium whatsoever in which any returns or monetary rewards are promised or implied and/or
- (b) verbally promising others or imply to others that they could achieve any returns or monetary rewards and/or
- (c) directly or indirectly inviting the public to buy franchises; and/or
- (d) receiving funds from franchisees and/or
- (e) directly or indirectly inviting the public to make investments; and/or
- (f) receiving investment funds from investors for management or reinvestment of such funds on the behalf of the investor.

(c) and (d) above will not be prohibited should the parties comply with the conditions of full membership or associate membership of the Franchising Association of South Africa.

.....
LOUISE A TAGER

CHAIRMAN: BUSINESS PRACTICES COMMITTEE

Date 28 July 1998

NOTICE 2755 OF 1998**DEPARTMENT OF TRADE AND INDUSTRY****HARMFUL BUSINESS PRACTICES ACT, 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 1090 of 1998 (Government Gazette No 18975 of 19 June 1998) and Notice 1193 of 1998 (Government Gazette No 19003 of 3 July 1998) and which report was published by General Notice 2754 (Government Gazette No 19461 of 1998) am of the opinion that a harmful business practice exists which is not justified in the public interest, I do hereby exercise my powers under section 12(1)(b) and (c) of the Harmful Business Practices Act, 1988 (Act No 71 of 1988), as set out in the Schedule.

**ALEXANDER ERWIN**

Minister of Trade and Industry

SCHEDULE

In this notice, unless the context indicates otherwise -

"harmful business practice" means -

- (a) placing any advertisement or type of advertisement in any advertising medium whatsoever in which any returns or monetary rewards are promised or implied and/or
- (b) verbally promising others or imply to others that they could achieve any returns or monetary rewards and/or
- (c) directly or indirectly inviting the public to buy franchises, unless the parties comply with the conditions of full membership or associate membership of the Franchising Association of South Africa and/or

- (d) receiving funds from franchisees, unless the parties comply with the conditions of full membership or associate membership of the Franchising Association of South Africa and/or
- (e) directly or indirectly inviting the public to make investments and/or
- (f) receiving investment funds from investors for management or reinvestment of such funds on the behalf of the investor.

"the parties" means

TradeFirst 78 (Pty) Ltd and any director,
Club 78 Trust (IT 3611/97) and any trustee,
Brothers-in-Arms Trust and any trustee,
Gert Hendrik Bothma (ID 580609 5067 000),
Josiena Marieta Engelbrecht (ID 550711 0180 089),
Tersia Jonck (ID 571208 0088 003),
Elsie Johanna Jacoba Monti (ID 590213 0094 008),
Christiaan Lodewikus Pienaar (ID 640126 5097 083),
Johannes Pretorius (ID 390915 5123 000),
Suzette Schoeman (ID 591112 0070 084),
Belinda Swartz (ID 651228 0050 004),
Leon Herman van Coller (ID 620411 5037 006), and
Charles Frederick Venter (ID 600708 5157 088),
and any employee, agent or representative of the businesses in which the parties have an interest, in the course of business.

1. The harmful business practice is hereby declared unlawful in respect of the parties.
2. The parties are hereby prohibited from -
 - (a) placing any advertisement or type of advertisement in any advertising medium whatsoever in which any returns or monetary rewards are promised or implied and/or

- (b) verbally promising others or imply to others that they could achieve any returns or monetary rewards and/or
- (c) directly or indirectly inviting the public to buy franchises, unless the parties comply with the conditions of full membership or associate membership of the Franchising Association of South Africa and/or
- (d) receiving funds from franchisees, unless the parties comply with the conditions of full membership or associate membership of the Franchising Association of South Africa and/or
- (e) directly or indirectly inviting the public to make investments and/or
- (f) receiving investment funds from investors for management or reinvestment of such funds on the behalf of the investor.

This notice shall come into operation on date of publication.

KENNISGEWING 2755 VAN 1998**DEPARTEMENT VAN HANDEL EN NYWERHEID****WET OP SKADELIKE SAKEPRAKTYKE, 1988**

Aangesien ek, Alexander Erwin, Minister van Handel en Nywerheid, na ooreweging van 'n verslag deur die Sakepraktykekomitee met betrekking tot 'n ondersoek waarvan kennis gegee is by Kennisgewing 1090 van 1998 (Staatskoerant No 18975 van 19 Junie 1998) en Kennisgewing 1193 van 1998 (Staatskoerant No 19003 van 3 Julie 1998), en welke verslag gepubliseer is by Algemene Kennisgewing 2754 van 1998 (Staatskoerant No 19461 van 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 (Wet No 71 van 1988), soos in die Bylae uiteengesit.

**ALEXANDER ERWIN****Minister van Handel en Nywerheid****BYLAE**

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

"die partye"

TradeFirst 78 (Edms) Bpk en einge direkteur,
Club 78 Trust (IT 3611/97) en enige trustee,
Brothers-in-Arms Trust en enige trustee,
Gert Hendrik Bothma (ID 580609 5067 000),
Josiena Marieta Engelbrecht (ID 550711 0180 089),
Tersia Jonck (ID 571208 0088 003),
Elsie Johanna Jacoba Monti (ID 590213 0094 008),
Christiaan Lodewikus Pienaar (ID 640126 5097 083),
Johannes Pretorius (ID 390915 5123 000),

Suzette Schoeman (ID 591112 0070 084),
Belinda Swartz (ID 651228 0050 004),
Leon Herman van Coller (ID 620411 5037 006), en
Charles Frederick Venter (ID 600708 5157 088),
en enige werknemer, agent of verteenwoordiger van 'n besigheid
waarin die partye in die loop van die besigheid 'n belang het,

"skadelike sakepraktyk"

- (a) die plasing van enige advertensie of tipe advertensie in enige adverteringsmedium hoegenaamd ingevolge waarvan enige opbrengs of geldwaardige teenprestasies belowe of geïmpliseer word en/of
 - (b) mondelings ander belowe of aan ander impliseer dat enige opbrengste of geldwaardige teenprestasies behaal kan word en/of
 - (c) direk of indirek die publiek uitnoui om 'n konsessie te koop tensy die partye voldoen aan die voorwaardes van volle lidmaatskap of meegaande lidmaatskap van die Franchising Association of South Africa en/of
 - (d) fondse ontvang van konsessie-houers tensy die partye voldoen aan die voorwaardes van volle lidmaatskap of meegaande lidmaatskap van die Franchising Association of South Africa en/of
 - (e) direk of indirek die publiek uitnoui om investerings te maak en/of
 - (f) investeringsfondse ontvang van investeerders vir bestuur of herinvestering namens die investeerder.
1. Die skadelike sakepraktyk word hiermee ten opsigte van die partye onwettig verklaar.
 2. Die partye word hiermee verbied om -
 - (a) enige advertensie of tipe advertensie in enige adverteringsmedium hoegenaamd te plaas ingevolge waarvan enige opbrengs of geldwaardige teenprestasies belowe of geïmpliseer word en/of
 - (b) mondelings ander te belowe of aan ander te impliseer dat enige opbrengste of geldwaardige teenprestasies behaal kan word en/of

- (c) direk of indirek die publiek uit te nooi om 'n konsessie te koop tensy die partye voldoen aan die voorwaardes van volle lidmaatskap of meegaande lidmaatskap van die Franchising Association of South Africa en/of
- (d) fondse te ontvang van konsessie-houers tensy die partye voldoen aan die voorwaardes van volle lidmaatskap of meegaande lidmaatskap van die Franchising Association of South Africa en/of
- (e) direk of indirek die publiek uit te nooi om investerings te maak en/of
- (f) investeringsfondse te ontvang van investeerders vir bestuur of herinvestering namens die investeerder.

3. Hierdie kennisgewing tree in werking op die datum van publikasie.

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