

REPUBLIC  
OF  
SOUTH AFRICA



REPUBLIEK  
VAN  
SUID-AFRIKA

# Government Gazette Staatskoerant

Vol. 408

PRETORIA, 14 JUNE 1999  
JUNIE 1999

No. 20185

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## GENERAL NOTICES • ALGEMENE KENNISGEWINGS

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NOTICE 1145 OF 1999

DEPARTMENT OF TRADE AND INDUSTRY

CONSUMER AFFAIRS (UNFAIR BUSINESS PRACTICES) ACT, 1988

I, Alexander Erwin, Minister of Trade and Industry, do hereby, in terms of section 10(3) of the Consumer Affairs (Unfair 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 General Notice 433 of 1999 as published in Government Gazette No. 19836 dated 19 March 1999 as set out in the Schedule.

A ERWIN  
MINISTER OF TRADE AND INDUSTRY

**KENNISGEWING 1145 VAN 1999**

**DEPARTEMENT VAN HANDEL EN NYWERHEID**

**WET OP VERBRUIKERSAKE (ONBILLIKE SAKEPRAKTYKE), 1988**

Ek, Alexander Erwin, Minister van Handel en Nywerheid, publiseer hiermee, kragtens artikel 10(3) van die Wet op Verbruikersake (Onbillike Sakepraktyke), 1988 (Wet No. 71 van 1988), die verslag van die Sakepraktykekomitee oor die uitslag van die ondersoek deur die Komitee gedoen kragtens Algemene Kennisgewing 433 van 1999 soos gepubliseer in Staatskoerant No. 19836, gedateer 19 Maart 1999, 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 75**

#### **MARKETING FOR SUCCESS (PTY) LTD, trading as ALPHA CLUB**

## 1. INTRODUCTION

On 17 September 1997 the Minister of Trade and Industry (the Minister), after considering Report 56<sup>(1)</sup> by the Business Practices Committee<sup>(2)</sup> (the Committee), published Notice 1350 in Government Gazette 18292. In this notice the Minister declared a number of business practices unlawful<sup>(3)</sup>. The parties who were directed to refrain from applying the harmful business practices were Newport LLC, Newport Business Club (Pty) Ltd, Newport Business Club (Newport), Martin Bradley, Wayne Bradley, Clancy Connor, Els Dijkstra, Elaine Douglas, Rob Edward, Paul Farrally, Ben Glas, Richard King, Bob Mitchell, Robert Prichard, Peter Sealey and Steven Sweeney and/or any member, partner, agent, representative, employee or any other person on their behalf.

On 17 November 1997 the Committee received a fax from a consumer who alleged that he was invited to a Newport meeting on 22 November 1997. He further claimed that he was told that Newport was now legal because it was "affiliated" with a travel agency. On 18 November 1997 the Committee received a copy of an article about Alpha Club that was published in a Cape Town newspaper. On 19 November 1997 Mr L Louw<sup>(4)</sup> (Louw), briefly informed the Committee about a new venture called Alpha Club. Issues raised by Louw are quoted from the minutes of the meeting of the Committee held on 19 November 1997.

"Mr Peter Sealey<sup>(5)</sup> of Newport Business Club approached Louw to meet with the Committee. Louw discussed certain issues, for example the involvement of Interpol, with Newport. John Carway, a very wealthy person who was at loggerheads with the Irish Government was the main role player behind Newport. Carway was keen to meet the Committee. The possible liquidation of Newport was mentioned resulting in the transfer of all assets to Alpha Club. The newspaper "Beeld" published an article on the new developments before Newport could inform and/or meet the Committee. Alpha was considered as the new vehicle whereby timesharing will be sold. Alpha did have a contract with RCI. Alpha owned timesharing which will be banked with RCI. A figure of nine to ten thousand resorts world wide was mentioned. The present members of Newport

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- (1) See Report 56: Newport Business Club (Pty) Ltd and Others, published under Notice 1349 in Government Gazette 18292, dated 17 September 1997. This report on Marketing for Success, trading as Alpha Club, could be regarded as a sequel to Report 56, and would be better understood should the reader were to first study Report 56.
  - (2) The Committee was established in terms of section 2 of the Harmful Business Practices Act, 71 of 1988 ("the Act"). The purpose of the Act is to provide for the prohibition or control of certain business practices and for matters connected therewith.
  - (3) Report 56: page 51.
  - (4) Mr Louw is the executive director of the Free Market Foundation. He was also a consultant to Newport.
  - (5) Mr Peter Sealey, a solicitor from England, was a legal advisor to Newport.



would be able to use their R14 000 investments in Newport by making use of the timesharing offers. The La Brie investment will remain in place. Sanlameer was one of the resorts in question. Alpha has a lot of credit with RCI. New members will be recruited to join Alpha at R16 000 per recruit. Newport would prefer to lose the litigation instituted against the Committee as the situation would then fit in better with their new plans. A concern called Marketing for Success did become involved in the affairs of Alpha Club and acquired the 20 percent interest which Newport held in the *en commandite* partnerships between Newport and its members".

## 2. ALPHA CLUB INTRODUCED TO EX-NEWPORT MEMBERS

On 2 December 1997 the Committee received copies of two letters from the Free State Commercial Crime Unit of the South African Police Service. These letters seemed to be relevant to an understanding of the connection between Alpha Club and Newport. The first letter was dated 7 November 1997 and was addressed to "Dear Member". The letter was signed by Ms Alexandra Sullner (Sullner), Chief Executive Officer of Marketing for Success (Pty) Ltd. The second letter, dated 12 November 1997 and addressed "To all Newport Business Club (Pty) Ltd 'en commandite' partners " was signed by Richard King<sup>(6)</sup>.

### 2.1 Sullner's letter dated 7 November 1997

Alexandra Sullner introduced herself to the approximately 8 300 ex-Newport members (the ex-members) as the Chief Executive Officer of Marketing for Success (Pty) Ltd, ("MFS"). It was stated in the letter that MFS had concluded a transaction with Newport whereby it had acquired the 20 percent interest that Newport owned in the *en commandite* partnerships that the ex-members and Newport were party to. MFS agreed to issue at no cost to these members an Alpha Club silver membership card. The ex-members were further informed that the business conducted by MFS and Alpha Club in South Africa was completely different to that which was conducted by Newport.

Alpha Club, she said, was a holiday and travel club with a difference. It offered its members, their family and friends world-wide travel benefits that were "... unique and very cost effective". From the moment of joining Alpha Club, its members could become established in a business of their own<sup>(7)</sup> (Committee's own underlining) which would allow them to sell Alpha Club memberships to their family, friends and the public at large. Alpha Club members could choose whether to make this a full-time or part-time business to suit their own lifestyle

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(6) Richard Joseph Peter King was the sole director of Newport.

(7) The "business" was selling Alpha memberships. Existing Alpha members invited prospective new members to a meeting where the "advantages" of membership was explained to them. This marketing strategy was also followed by Newport.

and economic needs. She also said that Alpha Club trained its members in how to conduct their business and its members were to be provided with their "... own place at two Alpha Club meetings in the area every week where they can conduct their business with the assistance of senior Alpha Club management. The level of income to be achieved is determined by the Alpha Club members own enthusiasm and diligence".

She further stated that in the Alpha Club programme, operated in South Africa and marketed by MFS, every new member started off with a silver membership which would allow them to sell silver memberships. As their businesses grew, they could progress to a gold or platinum membership which would have allowed them in turn to sell gold and platinum memberships.

The ex-members were informed that "...in the next few days you will be contacted by your local Alpha Club representative (as Alpha Club has recruited many of the Newport Sales Personnel, this will probably be somebody that you already know) who will tell you a lot more about Alpha Club and provide you with all the information and material to start to enjoy Alpha Club and to earn money from your new business".

As part of the agreement between Newport and MFS, Alpha Club took over the Newport offices in Bedfordview. The physical address of the outlawed Newport and Marketing for Success were the same, namely Norwich Life House, 3 Cambridge Place, Corner of Oxford and Kirkby Roads, Bedfordview.

## **2.2 King's letter dated 12 November 1997**

The following is a precis of the letter dated 12 November 1997 and addressed "To all Newport Business Club (Pty) Ltd 'en commandite' partners".

"Newport has been engaged in constant litigation with South African authorities, incurring legal costs of many millions of Rands. The Committee, a group of people operating unconstitutional, recommended to the Minister that our business should be deemed to be a harmful business and closed down. The Minister accepted the recommendation by the Committee. Newport has brought the unconstitutional actions of the Committee and the Minister before the Courts alleging bias, prejudice, ignorance, duplicity and bad faith being exercised by the Committee. We are still awaiting the judgement.

Newport, however, is fearful that even with a favourable judgement that would allow it to recommence its business, the Committee will again attack Newport. The Committee, the South African Government and the South African press have conspicuously ignored the benefits that Newport has brought to the economy of South Africa in the past twelve months. These benefits include creating more than 250 jobs, the payments of more

than R14 million in taxes, the investment of more than R15 million<sup>(8)</sup> in a timeshare development and the opportunity to members to generate substantial incomes.

In the face of concentrated prejudice, duplicity and bad faith and faced with escalating legal fees, Newport adopted another course of action to protect its members' interests. Accordingly, Newport has sold its 20 percent interest in the *en commandite* partnerships to MFS, a newly created South African subsidiary of an international company.<sup>(9)</sup> MFS holds the South African franchise to operate Alpha Club, a holiday and travel club. The membership of Alpha Club are sold through a system whereby members are established in their own businesses. (Committee's own underlining).

The net effect of the transaction is that each Newport member will receive an entry-level Silver Card membership to Alpha Club and the associated business ownership status attached thereto. The collective retail value of the memberships being issued is in excess of R132 million. The appropriate legal advice has been taken to ensure that the method by which MFS operates the Alpha Club franchise in South Africa is legal and regardless of any possible bias from the Committee, could never be deemed to be a harmful business practice.

For the avoidance of doubt, Newport has been advised by their legal representatives to inform you that MFS operates a business which is completely different from that which you have experienced since joining and participating in Newport. Notwithstanding this, your Alpha Club membership provides you and your family with immediate valuable benefits and the opportunity to generate income for years to come while participating in your own business with the assistance of MFS to market Alpha Club".

With the information at its disposal, the Committee on 2 December 1997 resolved to undertake a section 4(1)(c)<sup>(10)</sup> investigation in terms of the Act into the business

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- (8) No evidence was ever produced that this amount was indeed invested.
- (9) Marketing for Success was not a subsidiary of an international company. The sole shareholder was Sullner. It later appeared that Hendrik Venter was also a director of MFS.
- (10) In terms of the Act the Committee could undertake a section 4(1)(c) or a section 8(1)(a) investigation into the business practices of a particular entity or individual. 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 section 4(1)(c) investigations 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 is not empowered to make any decisions on the

practices of MFS, trading as Alpha Club. In this report, any reference to MFS would mean MFS, trading as Alpha Club. Similarly, any reference to Alpha would mean Alpha Club, the trading name of MFS. The words "MFS" and "Alpha" will be used alternately. At this point it is necessary to deviate from Newport, MFS and Alpha Club to briefly discuss the investigation by the Committee into money revolving schemes.

### 3. THE INVESTIGATION INTO MONEY REVOLVING SCHEMES

The investigation by the Committee into the business practices of Newport commenced early in 1997. The investigation was protracted because of numerous court cases instituted by Newport against the Committee. These are set out in detail in Report 56.

The investigation into Newport was preceded by an investigation into the business practices of the Rainbow Business Club.

The Rainbow and Newport schemes led to a mushrooming of such schemes in South Africa during the past three years. These schemes, commonly called "pyramids", create a dilemma for authorities. While a scheme is operating there are people, who are making money out of it. This apparent success is always visible to new entrants. Should the authorities step in and stop the scheme to prevent still more people from losing money, the authorities are accused of being paternalistic, unconstitutional, interfering with the consumers' freedom of choice, ignorance, bias and many more. When the authorities do not intervene and the scheme grinds to a stop, as all these schemes inevitably do, the outcry is "... why did the authorities not intervene?"

The *ad hoc* investigations took up considerable time and the Committee resolved to undertake a general or section 8(1)(b) investigation in terms of the Act into "money revolving schemes". The following appeared as Notice 1545 in Government Gazette No 18390 of 31 October 1997.

"In terms of the provisions of section 8(4) of the Harmful Business Practices Act, 1988 (Act No 71 of 1988), notice is hereby given that the Business Practices Committee intends undertaking an investigation in terms of section 8(1)(b) of the said Act into money revolving schemes as defined in the schedule.

#### Schedule

In this notice, unless the context indicates otherwise, a "money revolving scheme" means a scheme-

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strength of a section 4(1)(c) investigation. He may do so in terms of a section 8 investigation.



(a) whereby participants are required to contribute valuable consideration towards the scheme, part of which contribution is used to reward both the promoters of the scheme and/or participants who preceded new participants and whereby promoters and/or participants are entitled to receive rewards out of contributions made by successive participants; and/or

(b) whereby the rewards of promoters and/or participants are directly correlated to the numbers of new participants canvassed directly or indirectly by the existing promoters and/or participants; and /or

(c) in which a majority of participants will not recoup their contributions, irrespective of:

- (i) the stage on the life cycle of the scheme; and/or
- (ii) at what stage the scheme comes to an end; and/or
- (iii) at what stage the participants joined the scheme".

The results of this investigation were published under Notice 1349 of 1997 in Government Gazette 18292 dated 17 September 1997.

#### 4. THE COMMITTEE'S LETTER DATED 3 DECEMBER 1997 TO MFS AND THE RESPONSE OF MFS

In the Committee's letter dated 3 December 1997 to MFS, MFS was informed about the intended investigation set out in section 3 above. A copy of the notice was attached to the letter. MFS was also notified that Louw informed the Committee on 19 November 1997 about MFS and Alpha Club although he said that he did not have all the details of the new venture.

The Committee informed MFS that, with the little information at its disposal, and in view of Notice 1545 (notice of the investigation into money revolving schemes), that it was concerned that the scheme operated by MFS and/or Alpha Club might not be "... completely different to that which was conducted by Newport". A number of questions were put to MFS, for example what the exact relationships between MFS and Alpha Club and the shareholders or members were and why did MFS and/or Alpha Club issue memberships, with a purported value of more than R132,8 million, to ex-members? Information at the Committee's disposal indicated that the total assets of Newport could not be more than R28 million<sup>(11)</sup>.

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(11) In Report 56 it was mentioned that it cost R14 000 to become a Newport "partner". R5 300 of this R14 000 was paid to the recruiting members, R4 740 was paid directly to the "management" and the remaining R3 960 was available for costs and "investments". Assuming that Newport had 8 300 members at the time they ceased "business", R32.868 million (8 300 times R3 960) was channelled to Newport. Assume



**MFS/Sullner's response to the letter of the Committee dated 3 December 1997 was dated 12 December 1997, but was received at the offices of the Committee on 6 January 1998 only. She said that before answering the specific questions asked by the Committee, she would like to make a few points about Alpha Club in general and the method by which MFS conducted its business in South Africa. The following is a brief summary of the letter and allegations made by Sullner<sup>(12)</sup>.**

**She emphasised that Alpha Club was not a time share sales operation but a holiday and travel club. The Alpha Club memberships were sold by existing members through a multi-level sales programme that conformed "... to the legal criteria which governs multilevel marketing worldwide". Members of Alpha Club did not carry stock, nor were they left to arrange their own business infrastructure. Alpha Club provided a product worth the cost of the membership and provided the infrastructure for each member to operate his/her business.**

**She further stated that MFS had been licenced by Brayfield Investments Limited to operate the Alpha Club business in South Africa. She confirmed that she was the sole shareholder in MFS. Brayfield Investments Limited was the master franchisee for Alpha Club and MFS paid a royalty to Brayfield on each membership sold. The Alpha Club was administered from a head office in the Algarve, Portugal, to provide the resort accommodation for members. Alpha Club purchased accommodation from holiday exchange organisations and from hotels, apartments and resort developers.**

**She said that the R132.8 million was the gross face value of the silver card membership issued to the ex-members. This was allegedly not based on the asset value of Newport but was based on the price that Alpha Club was selling silver memberships in other countries. An alleged commercial decision was made to the effect that, to obtain an initial platform of 8 300 members, justified the issue of silver membership to the ex-members at no cost. "There are obvious costs to MFS and indeed to Brayfield but these will no doubt be recouped as the business grows in South Africa".**

**MFS invited the Committee, or selected members, and it's investigating**

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further that Newport had indeed invested R15 million and that their legal costs were R4 million. Then R13.868 million remained assuming a zero administration cost. This amount plus the unproven investment of R15 million meant that the total assets were, at most, R28.868 million. There was, obviously, no evidence of the existence of these "assets". The collective retail value of the memberships offered to ex-members was stated by King as R132.8 million. For all intents and purposes it seemed that nothing had really changed. Existing members of Apha needed to recruit new members to start their own business.

- (12) The Committee did not meet Sullner during the course of the investigation. The same applied to King at the time of the Newport investigation.

officers to Alpha Club's headquarters in Portugal to see the operation at first hand, interview the executives and employees and get a "first hand" understanding. MFS would have paid the reasonable costs attributable to this visit. *The Committee declined this invitation.*

## 5. THE COMMISSION STRUCTURE

The commission structure of MFS, trading as Alpha Club, was similar to that of Newport. To explain the composition of the commission structure, the following is quoted from a document which the Committee received from Alpha:

- "1. The R16 000<sup>(13)</sup> payment made by you is your non-refundable capital contribution in your partnership with Marketing For Success (Proprietary) Limited ("MFS")
  2. By entering into the partnership you will acquire ordinary (Silver) membership of Alpha Club and the benefits and discounts that it offers. (A copy of the current rules of Alpha Club is attached.) Full details of such membership and the benefits accruing to you will be explained to you in more detail at presentations.
  3. Once you have entered into the partnership you are entitled to earn commission by selling Alpha Club memberships. The commissions payable are illustrated by the following steps, keep in mind that each new partner pays R16 000 and R5 000 of this amount is earmarked by MFS for commissions on the sale Alpha Club memberships. The amounts to be deducted in respect of income tax are ignored because the effect on each partner will be different, depending on the marginal tax rate of that partner.
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- 4.1 STEP ONE - You become en commandite partner and purchase an Alpha Club membership by paying R16 000. You are now a Silver Member. R5 000 of the R16 000 paid by you will be paid to the Silver Member and/or the Group Member who sold you your Alpha Club membership.
  - 4.2 STEP TWO - Should you sell two new Alpha Club memberships, you will receive a commission of R3 000 for each new members sold. You then become a group member. You do not receive any further commissions from the initial

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(13) The R16 000 had to be paid in cash. Newport members also had to pay cash to become members.

two memberships that you sold or the people that they sell memberships to.

**4.3 STEP THREE - You are now a Group Member. For each Alpha Club membership sold directly by you, you will receive a commission of around R5 000.**

**4.4 STEP FOUR - You will receive a commission of R2 000 out of the R16 000 capital contribution for each new membership sold by your Silver Members.**

The steps set out above are merely a basic outline of the operation of the business and further comprehensive details will be furnished to you on request and in any event at the business and marketing development programmes held by MFS each week.

**5. Note that MFS retains R11 000 of the R16 000 paid and applies it *inter alia* in meeting its sales management costs as described in paragraph 4.4.4.5 of the En Commandite Partnership Agreement and administration expenses, employment costs and including, without limitation, payment of the licence and/or franchise fees payable to Alpha Club licensor.**

**6. In addition, 10% of all commissions accruing to you from "indirect sales" shall for all purposes be deemed to be earned by and accruing to the partnership and shall be dealt with by MFS in furtherance of the business of the partnership".**

In an example the accrued earnings in a nine-month time frame, assuming that members made only one new sale of membership per month, was stated as R134 000. The commission structure was more or less similar to the structure that applied to Newport.

## **6. OTHER COMPLAINTS RECEIVED BY THE COMMITTEE**

On 17 December 1997 the Committee received a complaint from the Timeshare Institute of South Africa (TISA) about Alpha Club. In its letter TISA stated *inter alia*:

**"We have attempted to ascertain the nature of their products and in discussions with RCI it appears that Alpha Club is relying on a voucher scheme, which is available in the industry. This once again means that the accommodation is totally dependant on availability and that the club itself does not own any stock emanating from the voucher scheme".**

On 22 January 1998 the Committee received a complaint from RCI Southern

**Africa in which it was *inter alia* stated:**

**"The Alpha Club are, we believe claiming to be affiliated to RCI and to have access to accommodation in this country, whilst we acknowledge that a lead generation agreement exists with RCI Portugal, RCI Southern Africa has no agreement what so ever with the Alpha Club. Furthermore RCI Southern Africa will not supply accommodation to Alpha members unless he/she is a bona fide timeshare owner at an RCI affiliated resort and a paid up member of RCI Southern Africa".**

**On 24 June 1998 the South African Reserve Bank wrote to the Committee and stated *inter alia*:**

**"The Registrar of Banks has reason to suspect that the above-mentioned organisation is and/or has been conducting the business of a bank whilst it is not registered as a bank in terms of the Banks Act, 1990 . For your information, please note that we are currently in the process of establishing whether this is, in fact, the case. Furthermore, this office would appreciate to learn whether you have any information in your possession relating to the activities of the Alpha Club, especially since it may be a possibility the Newport Business Club (Pty) Limited may be involved in the said scheme"**

**Commercial Crime Units of the South African Police Services also brought the activities of MFS/Alpha to the attention of the Committee. On 26 May 1998, for example, the Commercial Crime Unit of Mpumalanga alleged that MFS/Alpha contravened Notice 1350 (see the first paragraph of this Report). The Committee also received a number of enquiries from individuals.**

**7. SEVERAL MEETINGS ABOUT THE AVAILABILITY OF ACCOMMODATION**

**On 19 January 1998 officials of the Committee held discussions with Sealey and Mr David Moulds, General Sales Manager of Alpha Club and based in Armação de Pêra, Portugal. This meeting took place at the offices of MFS in Bedfordview. A further meeting between officials and Sealey was held on 8 April 1998 at the same venue.**

**Newport was closed down by the Minister because, *inter alia*, a majority of Newport Club members would at any stage lose money when the scheme came to an end. The Committee was of the opinion that this fact unreasonably prejudiced the existing and future Newport members. Spokesmen for MFS/Alpha contended that same argument could not be followed in the Alpha case. Alpha members allegedly had the opportunity to obtain holiday accommodation abroad at greatly reduced rates. Therefore they could not lose anything. Despite various correspondence and discussions, MFS/Alpha could not convince the Committee that the accommodation offered was indeed available or taken up.**



## **8. LETTER DATED 17 JULY 1998 FROM THE COMMITTEE TO SEALEY**

Sealey was informed on 17 July 1998 that MFS/Alpha, was discussed at a meeting of the Committee held on 14 July 1998. Previous correspondence between MFS/Alpha and the Committee revolved round the issue of the availability of accommodation abroad. The Committee also wished to discuss aspects of the marketing strategy followed by Alpha.

He was reminded that on previous occasions the Committee expressed its concern about "money revolving schemes". A copy of Notice 1545 (see section 3) was included in the letter. The Committee required Alpha to explain to the Committee why:

- "(a) the marketing strategy whereby commissions paid to existing members and management, such as executive partners assistant marketing directors, marketing directors and regional directors or whatever they are called, to canvass new members is not a harmful business practice as defined in section 1 of the Act.**
- (b) the Committee should not undertake an investigation in terms of section 8 (1) (a) of the Act into the business practices of Alpha and those persons responsible for its management".**

## **9. THE MEETING WITH THE COMMITTEE ON 28 JULY 1998**

Representatives of Alpha attended a meeting of the Committee on 28 July 1998. An independent business recorded the proceedings at the meeting and prepared a transcript thereof. Representing Alpha were Sealey, Mr Richard Lawrence (Lawrence) and Ms Elaine Douglas<sup>(14)</sup> (Douglas). Lawrence, it was said, "... represented the Alpha team and advises world wide" and Ms Elaine Douglas was "... actually a member of the company". She was in charge of the training of Alpha members in South Africa to run and operate their own businesses.

The Chairman of the Committee said that the meeting should focus on the letter of the Committee dated 17 July 1998. She referred to (a) and (b) set out in section 7 above.

Sealey, Lawrence and Douglas explained to the Committee that Alpha was involved in multilevel marketing and that it was no different from other businesses in South Africa who distributed their products through multilevel

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(14) Ms Douglas was one of the parties who were directed by the Minister to refrain from applying the harmful business practices set out in the first paragraph of this report.



marketing. Douglas told the Committee about the presentations that Alpha gave two days a week and how hard the Alpha Club members worked to earn their money. During the discussions Sealey said that a "money revolving scheme" just invokes money and that if it was properly run and properly managed, there was nothing imperatively wrong with such schemes.

The Committee also discussed the number of reservations Alpha made on behalf of its members. From figures supplied by Sealey, it appeared that Alpha received 246 enquiries from members for holidays abroad. Only seven (2.84 per cent) of these enquiries led to confirmed bookings. Approximately 63 percent (155 members) of the 246 members, having received offers for accommodation, did not elect to avail themselves of it. Another 26 (10.5 per cent) enquirers said that they would advise the office about their decisions and 12 (4.9 per cent) informed the Alpha office that their offers were too expensive. Other members informed the Alpha office *inter alia* that they were no longer travelling, advised the office that their offer was not suitable, requested more suggestions and that they made enquiries only. It was earlier stated that Alpha Club offered silver card membership to all 8 300 ex Newport members.

These figures suggested that the Alpha Club members were not that interested in going aboard for holidays, but became members to "make money" by canvassing new members. Less than 0.1 per cent (7 members) of the 8 300 ex-members availed themselves of the opportunity to enjoy a holiday abroad. Sealey said that he was not surprised by the figures because members were "... testing the system" to see what was available. He said:

"Look its just because they were just testing the system. You see, I think what happened, and this is probably not really of any great relevance, but, this is my view. At 8 000 people who were bitterly disappointed to be disenfranchised. And out of the blue, and they suddenly get an Alpha club membership. Now, those 8 000 odd people were not only upset and cross, they were disenchanted. They'd lost I believe, a desire to carry on in this type of industry. They lost their believe, motivation, call it what you will. So, we expected, inevitably, a fair number of people that would, would just see if it was true, or was it, you know, all the bad press, and it's a scam, it's a scheme. It doesn't exist. I think they were just, we expected them to test the system. We welcomed it".

Lawrence said the Alpha product was membership. It was a service as opposed to

"... a piece of something or, cosmetic or whatever. But, but the service is the product".

Sealey said that: "I think the reality in a way, if you buy an Alpha Club membership, and you see there is the potential to get commission by selling the product, inevitably human nature is such that people will have a go". Then Douglas said that

**"... some people buy for the products, most people buy it from my experience, to run their own business. And, and that is from the experience directly from the, having our meetings at the end of the night".**

**This remark by Douglas confirmed that consumers became members of Alpha to make money by canvassing new members.**

**Sealey said in conclusion:**

**"In our view, it clearly is not a harmful business practice. I repeat, just like any other network marketing business. It is not based on misrepresentation. It is not based on any form of swindle. People go into it with their eyes open. They know exactly what they have to do. If they choose not to do it, at the end of the day, there is that one assumption that they must actually to get their value, want to book a holiday or want to go on a business trip. But there is nothing remotely underhand about it. It is unique, in my experience, in the amount of effort that goes into training people. The amount of assistance that is given to people they are not just abandoned".**

**At the end of the meeting the Chairman informed the representatives of Alpha that the Committee would set out in writing what to the Committee constituted the harmful aspect of the operation. Alpha would then be given two weeks to reflect on that and to see whether to what extent they could adjust their operation to allay the concerns of the Committee.**

#### **10. THE LETTER OF THE COMMITTEE DATED 14 AUGUST 1998 TO SEALEY**

**On 14 August 1998 the Chairman of the Committee wrote a letter to Sealey referring to the meeting with Douglas, Lawrence, himself and the Committee on 28 July 1998. It was pointed out to him that the general investigation into "money revolving schemes" was brought to his attention on more than one occasion. The general investigation did not preclude the Committee from undertaking investigations into specific entities that could be involved with harmful business practices as defined in section 1 of the Act. In terms of section 8(1)(a) of the Act the Committee may on its own initiative, undertake such investigation as it may consider necessary into any harmful business practice which the Committee has reason to believe exists or may come into existence.**

**It was put to Sealey that those operating "pyramid promotional schemes" would probably be involved in harmful business practices. The Committee was, with the information at its disposal, of the opinion that the business practices of Marketing for Success, trading as Alpha Club, could, in the light of the of the**

proposed definitions in the draft section 8(1)(b)<sup>(15)</sup> report, constitute a "pyramid promotional scheme". The proposed definitions of a "pyramid promotional scheme", "consideration" and "compensation" were:

**"Pyramid promotional scheme "... any plan or operation by which a participant gives consideration for the opportunity to receive compensation which is derived primarily from the person's introduction of other persons into a plan or operation rather than from the sale of products by the participant or other persons introduced into the plan or operation".**

**Consideration "... the payment of cash or purchase of goods, services, or intangible property. Consideration does not include: purchase of products furnished at cost to be used in making sales and not for resale, purchase of products where the seller offers to repurchase the participant's products under reasonable commercial terms and the participant's time and effort in pursuit of sales or recruiting activities".**

**Compensation "... the payment of money, a thing of value, or any financial benefit or any discounts which may accrue to the participant. Compensation does not include: Payments to participants based upon sales of products purchased for actual use or consumption, including products used or consumed by participants in the plan and payment to participants under reasonable commercial terms".**

The following is a quote from the letter dated 14 August 1998:

**"Alpha Club contends that it is in the business of "supplying accommodation" or being in the "travel business" in general. If that were the case, one would assume that Alpha Club would derive its income from its members utilising the services of hotels, resorts and airlines. This is not the case, because Alpha's business; and that of its members, does not depend on selling accommodation. The turnover and profit of Alpha Club and its members are dependant on existing members recruiting new members. The income of Alpha Club and its members has no connection whatsoever with the members utilising or consuming the travel services".**

**It was agreed at the meeting on 28 July 1998 that Alpha Club would be given two weeks to respond to this letter. The Committee would then consider your response and would decide whether it should proceed with a section 8(1)(a) investigation into the business practices of Marketing for Success, trading as Alpha Club, its shareholders, management, marketing directors and members.**

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(15) The results of this investigation were published under Notice 1349 of 1997 in Government Gazette 18292 dated 17 September 1997.

## 11. FURTHER EVENTS

On 27 August 27 the Committee received a fax from Lawrence, who was based in Salt Lake City, and counsel to Alpha Club in its world wide operations. He *inter alia* said:

**"With hind sight, Alpha Club's entry into South Africa by means of a negotiated transaction with Newport Business Club, utilizing the sales personnel of Newport Business Club and extending memberships to Newport Business Club members was a mistake. I believe it has caused Alpha Club tremendous difficulty, not only with the Business Practices Committee, but also with Alpha Club's operations in South Africa. There is no question in my mind that the Business Practices Committee's view of Alpha Club has been damaged and distorted as a result of the prior activities of the Newport Business Club".**

and

**"It is also my understanding from reading this prior correspondence, that Marketing for Success has provided the Committee with ample evidence that:**

- 1. the sale of Alpha Club memberships do not constitute the sale of time share interests.**
- 2. the commissions paid to the marketing executives are a reasonable marketing expense.**
- 3. Alpha Club members have access to discounts at a significant number of hotels.**
- 4. there are no misrepresentations or dishonesty in the sale of Alpha Club memberships.**
- 5. the price for Alpha Club membership is reasonable and fair".**

**"I would be grateful if you could confirm to me in writing that the Committee is now satisfied on these issues".**

On 2 September 1998 the Committee informed Sealey that it considered the response by Lawrence at its meeting on 1 September 1998 and that the Committee resolved to undertake a section 8(1)(a) investigation into the business practices of Marketing for Success (Pty) Ltd trading as Alpha Club and any director, and any employee, agent and/or representative of any of the aforementioned in respect of the activities of Marketing for Success (Pty) Ltd, trading as Alpha Club.



On 3 September 1998 the Committee again received a fax from Lawrence in which he said that, provided the Committee withdraws its resolution of 1 September 1998 with respect to Marketing for Success and Alpha Club, and does not publish the proposed notice the Government Gazette, Alpha Club would immediately instruct Marketing for Success to voluntarily suspend sales of Alpha Club memberships in South Africa.

The Committee received another fax from Lawrence on 9 September 1998. He confirmed that Marketing for Success, trading as Alpha Club, would immediately suspend the sales of Alpha Club memberships for such time it is necessary for the Committee to complete its investigation or to have come to an agreement with Marketing for Success which in the opinion of the Committee would ensure the discontinuance of a possible harmful business practice.

After a meeting of the Committee on 10 September 1998, it wrote to Sealey on 15 September:

" At the meeting of the Committee on 10 September 1998 you indicated that, should the Committee find that a harmful business practices exists and the Committee does not come to an agreement with Marketing for Success, it would immediately cease the sales of Alpha Club memberships in South Africa.

The Committee deliberated the business practices of Marketing for Success (Pty) Ltd, trading as Alpha Club, and resolved that:

(a) an arrangement with Marketing for Success (Pty) Ltd that would be acceptable to the Committee would be that Marketing for Success (Pty) Ltd cease the marketing practice whereby existing members of Alpha Club and/or the management of Marketing for Success (Pty) Ltd are remunerated, directly or indirectly, to canvass new members for Alpha Club;

(b) the Committee regards the business practice of Marketing for Success (Pty) Ltd, whereby existing members of Alpha Club and/or the management of Marketing for Success (Pty) Ltd are remunerated, directly or indirectly, to canvass new members for Alpha Club, a harmful business practice in terms of section 1 of the Harmful Business Practices Act, 71 of 1988;

(c) Marketing for Success (Pty) Ltd be afforded the opportunity to accept an arrangement with the Committee, in terms of section 9 of the Act, whereby Marketing for Success (Pty) Ltd will undertake to immediately cease the marketing strategy whereby existing members of Alpha Club and/or the management of Marketing for Success (Pty) Ltd are remunerated, directly or indirectly, to canvass new members for Alpha Club in South Africa;



(d) the arrangement set out in the preceding paragraph will be published in the Government Gazette; and

(e) should Marketing for Success (Pty) Ltd fail to agree to the arrangement set out above, the Committee will continue with the publication of the notice of the section 8(1)(a) investigation into the business practices of Marketing for Success (Pty) Ltd, trading as Alpha Club.

Should Marketing for Success (Pty) Ltd accept the proposed arrangement, it is required that it be accepted in writing by a person duly authorised by Marketing for Success (Pty) Ltd to do so. The acceptance of the arrangement before 12h00 on 23 September 1998 is essential. Failing to do so will result in the publication of the notice of the investigation, as set out in (e) above".

On 28 October 1998 Lawrence advised the Committee by fax:

"Under the present circumstances it is neither possible nor practical to continue to sell Alpha Club membership in South Africa. According we have as today's date rescinded our licence agreement with MSF. In taking this action we have actively and immediately resolved the issue before the Committee. No Alpha Club memberships will be sold in South Africa.

As MFS is no longer a licensee of Alpha Club, neither MFS, its directors, officers and legal advisers are authorized to make any representations, give any undertakings or any commitments on behalf of Alpha Club. Alpha Club will continue to operate a service office as reservation office in South Africa to service the need's of the existing Alpha Club members in South Africa.

At such time as Alpha Club shall determine that it wished to resume sales of memberships in South Africa, I will contact the Committee to review any sales practices before any sale begin".

On 19 November 1998 the Committee responded to the fax of Lawrence dated 28 October 1998. Lawrence was referred to his statements that "... we have as at today's date rescinded our license agreement with MSF. In taking this action we have effectively and immediately resolved the issue before the Committee. No further Alpha Club memberships will be sold in South Africa". The Committee further wrote:

"You are aware that the Committee is undertaking a section 4(1)(c) investigation in terms of the Harmful Business Practices Act, 71 of 1988 (the Act), into the business practices of Marketing for Success trading as Alpha Club. In terms of section 9 of the Act, when the Committee had decided to undertake a section 4(1)(c) investigation, it may at any time

thereafter negotiate with any person or body, corporate or unincorporated, with a view to making an arrangement which in the opinion of the Committee will ensure the discontinuance of a harmful business practice which exists or may come into existence and which is the subject to the investigation.

Unfortunately the Committee is not of the opinion that, as you put it, the issue is effectively and immediately resolved. The Committee is concerned that Alpha Club could be revived in South Africa under the guise of another entity and continue the alleged harmful business practice (read in conjunction with section 9 - or may come into existence). There seem to be two options. Either the Committee enters into an agreement with the "International" Alpha Club (IAC) or it continues its investigation under strength of a section 8(1)(a) investigation in terms of the Act into the business practices of Marketing for Success trading as Alpha Club.

**An agreement in terms of section 9 of the Act.**

You said that "As MFS is no longer a licensee of Alpha Club, neither MFS, it's directors, officers or legal advisers are authorized to make any representation, give any undertakings or any commitments on behalf of Alpha Club".

This sentence precludes the Committee in entering into an agreement with MFS (Ms Sullner) or Mr Peter Sealey (legal advisor). It is thus apparent that the Committee need to enter into an agreement with IAC to the effect that no further memberships will be sold in South Africa now or in future, either in its present form or in a modified form under the guise of another entity. The detail of such an agreement would obviously be agreed upon should this alternative be acceptable. Agreements in terms of section 9 of the Act are published in the Government Gazette.

**The Committee continues its investigation in terms of section 8(1)(a) of the Act.**

The Act specifies that a report be presented to the Minister or Trade and Industry after the completion of a section 8(1)(a) investigation. After completion of the investigation the Committee would recommend, if it is of the opinion that a harmful business practice exists or may come into existence, to the Minister which powers he should exercise to ensure the discontinuance of a particular harmful business practice. The powers of the Minister are set out in section 12 of the Act. Reports of investigations in terms of section 8(1)(a) of the Act are published in the Government Gazette.

It would be appreciated if you could indicate, on or before 30 November 1998, whether IAC is desirous to enter into an agreement with the

**Committee or whether the Committee should continue its investigation in terms of section 8(1)(a) of the Act. It stands to reason that the Committee requires documentary evidence from IAC that it has "... as at today's date rescinded our license agreement with MSF".**

**On 30 November 1998 Lawrence informed the Committee that "Alpha has never done business in SA. An agreement with the Committee could be 'viewed as some admission' on the part of Alpha Club that it has in fact conducted business in SA".**

**Because of other urgent matters and also because Alpha stated that "No further Alpha Club memberships will be sold in South Africa", the Committee did not have time to again discuss MFS or Alpha before 8 March 1999. On 8 March 1999 the Committee confirmed its resolution taken on 1 September 1998 to proceed with the investigation in terms of section 8(1)(a) of the Act into the business practices of Marketing for Success, trading as Alpha Club. Lawrence was informed about this decision.**

## **12. THE SECTION 8(i)(a) NOTICE**

**The following appeared as Notice No 433 in Government Gazette No 19836 dated 19 March 1999.**

**"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 -**

**Marketing for Success (Pty) Ltd trading as Alpha Club and any director and any employee, agent and/or representative of any of the aforementioned in respect of the business activities of Marketing for Success (Pty) Ltd, trading as Alpha Club.**

**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, Fax (012) 320-0579  
Ms L van Zyl Ref. H101/20/10/20(97)".**

**The office of Marketing for Success (Pty) Ltd, trading as Alpha Club, in Bedfordview and Lawrence was informed about the publication of the section 8(1)(a) notice.**

### 13. CONCLUSION

MFS/Alpha's only real product was money. The success of MFS/Alpha, as in the Newport case, was dependent on the money received from its members and new members *on a continuous basis*. Ms Douglas confirmed that MFS/Alpha sold "business opportunities" to the members. She said "... some people buy for the products, most people buy it from my experience, to run their own business".

Sullner stated in her letter dated 7 November 1997 to the approximately 8 300 ex-Newport members that Alpha Club "... was a holiday and travel club with a difference. It offered its members, their family and friends world-wide travel benefits that were unique and very cost effective". From figures supplied by Alpha, it appeared that less than 0.1 per cent of the members availed them of the opportunity to enjoy a holiday abroad. This figures clearly suggests that the Alpha Club members were not that interested in going aboard for holidays, but became members to "make money" by canvassing new members.

The "advantage" to consumers who became members was the right to recruit and introduce new members. A considerable part of a new members' payment served to fund the recruitment costs, that is, the commissions payable to existing members who have recruited the new members and also the management of the scheme. The greater the number of new members introduced, the sooner was the recoupment of the original cash payment.

Assume that Alpha Club members had to recruit at least four new members each to recoup their "investments". These four new members must then recruit at least 16 other members to recoup their payments. Assume further that the scheme started with 10 people. These 10 people would need to recruit at least 40 new members to recoup their payments. The scheme now has 50 members of whom only 10 recouped their payments. To recoup their payments the 40 "out-of-pocket" members need to recruit at least 160 new members. The scheme now has 210 members of whom 50 recouped their payments while the remaining 160 members need to recruit at least 640 new members to recoup their payments. The cumulative figures are set out in the next table.

The figures in column A reflect the number of new members required to enable previous members to recoup their payments. For example, the 40 new members would need to canvass 160 new

New members (A)	Total members (B)	A as a % of B
40	50	80.0000
160	210	76.1905
640	850	75.2941
2 560	3 410	75.0733
10 240	13 650	75.0183
40 960	54 610	75.0046
163 840	218 450	75.0011
655 360	873 810	75.0003
1 621 440	3 495 250	75.0001
10 485 760	13 981 010	75.0000



members to recoup their payments, and the 10 240 members need to recruit 40 960 new members to recover their payments.

The figures in column B shows the numbers of members necessary to enable the previous members to break even. For example, 850 people must have had to become members or partners of the scheme to enable the previous 210 members to recoup their payments.

The last column in the table shows the percentage of members that have not yet recouped their payments. Given the assumptions underlying the figures in the table, it is clear that the percentage of members that would not recover their payments would never be smaller than 75 per cent. This would apply to the total number of members, irrespective of at what stage they joined the Alpha club scheme.

The Committee is of the opinion that Alpha members would be unreasonably prejudiced. At any point in time people will lose money. Few people will make money and many would lose money. The relations between those consumers who have not recouped their payments and the business, Alpha, will be harmed. In terms of the Act this by itself would constitute a harmful business practice.

#### 14. RECOMMENDATION

The business practices of MFS/Alpha constituted 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:

**Marketing for Success (Pty) Ltd, trading as Alpha Club, Peter Sealey, Alexandra Sullner and Hendrik Venter and/or any member, partner, agent, representative, employee or any other person on their behalf (hereafter referred to as "the aforesaid persons"), in the course of the business of any of the aforesaid persons, directly or indirectly -**

(a) invites or procures the attendance or attempts to invite or to procure the attendance of any person to a meeting held by or on behalf of any of the aforesaid persons at which meeting such person (hereinafter referred to as the "participating person") is invited, encouraged or in any way enticed to enter into any arrangement with any of the aforesaid persons the terms whereof include any provision which have the following effect:

(i) the parties to the agreement enter into a partnership



(ii) 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 following effect:

(i) the parties to the agreement enter into a partnership

(ii) 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) 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 aforesaid persons; 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 prohibited in terms of paragraph (b) or (c) above.

It is further recommended that the Minister direct the aforesaid persons in terms of section 12(1)(c) of the Act to terminate or to cease to be parties to the agreement(s)/arrangement(s) mentioned above.

**LOUISE A TAGER**  
**CHAIRMAN: BUSINESS PRACTICES COMMITTEE**  
**22 April 1999**

**NOTICE 1146 OF 1999****DEPARTMENT OF TRADE AND INDUSTRY****CONSUMER AFFAIRS (UNFAIR BUSINESS PRACTICES) ACT, 1988**

I, Alexander Erwin, Minister of Trade and Industry, after having considered a report by the Business Practices Committee in relation to an investigation of which notice was given in General Notice 433 in Government Gazette 19836, dated 19 March 1999, which report was published in Notice 1145 in Government Gazette No. 20185 of 14 June 1999, and being of the opinion that a harmful business practice exists which is not justified in the public interest, do hereby exercise my powers in terms of section 12(1)(b) of the Consumer Affairs (Unfair Business Practices) Act, 1988 (Act No. 71 of 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" the business practice whereby the parties, directly or indirectly:

- (a) invite or procure the attendance or attempt to invite or to procure the attendance of any person to a meeting held by or on behalf of any of the aforesaid persons at which meeting such person (hereinafter referred to as the "participating person") is invited, encouraged or in any way enticed to enter into any arrangement with any of the aforesaid persons the terms whereof include any provision which have the following effect:

(i) the parties to the agreement enter into a partnership

(ii) 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) enter into any arrangement with any person the terms whereof includes any provision which has the following effect:

(i) the parties to the agreement enter into a partnership

(ii) 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) 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 aforesaid persons; 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 prohibited in terms of paragraph (b) or (c) above.

"the parties" means Marketing for Success (Pty) Ltd, trading as Alpha Club, Peter Sealey, Alexandra Sullner and Hendrik Venter and/or any member, partner, agent, representative, employee or any other person 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 any interest in a business or type of business which applies the harmful business practice or to derive any income there from;
  - (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 upon the date of publication hereof.

**KENNISGEWING 1146 VAN 1999****DEPARTEMENT VAN HANDEL EN NYWERHEID****WET OP VERBRUIKERSAKE (ONBILLIKE SAKEPRAKTYKE), 1988**

**Ek, Alexander Erwin, Minister van Handel en Nywerheid, na oorweging van 'n verslag deur die Sakepraktykekomitee met betrekking tot 'n ondersoek waarvan in Kennisgewing 433 van 1999 soos gepubliseer in Staatskoerant No. 19836, gedateer 19 Maart 1999, kennis gegee is, welke verslag gepubliseer is by Kennisgewing 1145 in Staatskoerant No. 20185 van 14 Junie 1999, is van oordeel dat 'n skadelike sakepraktyk bestaan wat nie in die openbare belang geregverdig is nie, en oefen hiermee my bevoegdheid uit kragtens artikel 12(1)(b) van die Wet op Verbruikersake (Onbillike Sakepraktyke), 1988 (Wet No. 71 van 1988), soos in die Bylae uiteengesit.**

**A ERWIN  
MINISTER VAN HANDEL EN NYWERHEID**

**BYLAE**

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

**"die partye" Marketing for Success (Pty) Ltd, handeldrywend as Alpha Club, Peter Sealey, Alexandra Sullner en Hendrik Venter en/of enige lid, vennoot, agent, verteenwoordiger, werknemer of enige ander persoon namens hulle,**

**"skadelike sakepraktyk" die sakepraktyk waardeur die partye, regstreeks of onregstreeks**

- (a) bywoning van enige persoon uitnoodi, bewerk of poog om uit te nooi of te bewerk na 'n vergadering wat gehou word deur of namens enige van die voorgenoemde persone waartydens sodanige persoon (hierna verwys as die "deelnemende persoon") uitgenoodi, aangemoedig of op enige wyse in versoeking bring om in enige ooreenkoms met die voorgenoemde persone te tree waarvan die terme enige voorsiening insluit wat die volgende effek het:**
- (i) die partye tot die ooreenkoms tree in 'n vennootskap**
  - (ii) die deelnemende persoon verplig is om 'n betaling van 'n finansiële teenprestasie te maak met die voorneme dat sodanige deelnemende**

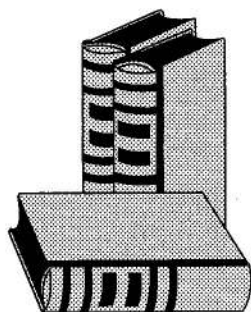
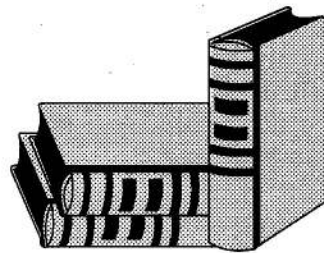


persoon betaling of enige ander finansiële verwante voordele, direk of indirek, van sy/haar deelname in die werwing van ander persone om in soortgelyke reëlins te tree met enige van die voorgenoemde persone, ontvang;

- (b) in enige reëling met enige persoon te tree waarvan die terme enige voorsiening insluit wat die volgende effek het:
  - (i) die partye tot die ooreenkoms tree in 'n vennootskap
  - (ii) 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 reëlins te tree met enige van die voorgenoemde persone, ontvang;
- (c) enige finansiële teenprestasie 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 voorgenoemde persone ingetree het, na te kom; en
- (d) enige betaling maak van enige finansiële teenprestasie of enige finansiële verwante voordele gee, direk of indirek, aan enige persoon in terme van enige reëling soos verbied in terme van paragraaf (b) of (c) hierbo.

- 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 bedryf, of om enige inkomste daaruit te verkry;
    - (c) te gener tyd die skadelike sakepraktyk te bedryf nie; en
    - (d) te gener tyd enige belang in 'n besigheid of tipe besigheid wat die skadelike sakepraktyk bedryf te bekom nie, of om enige inkomste daaruit te verkry nie.
  - 3. Die kennisgewing tree in werking op die datum van publikasie hiervan.
-

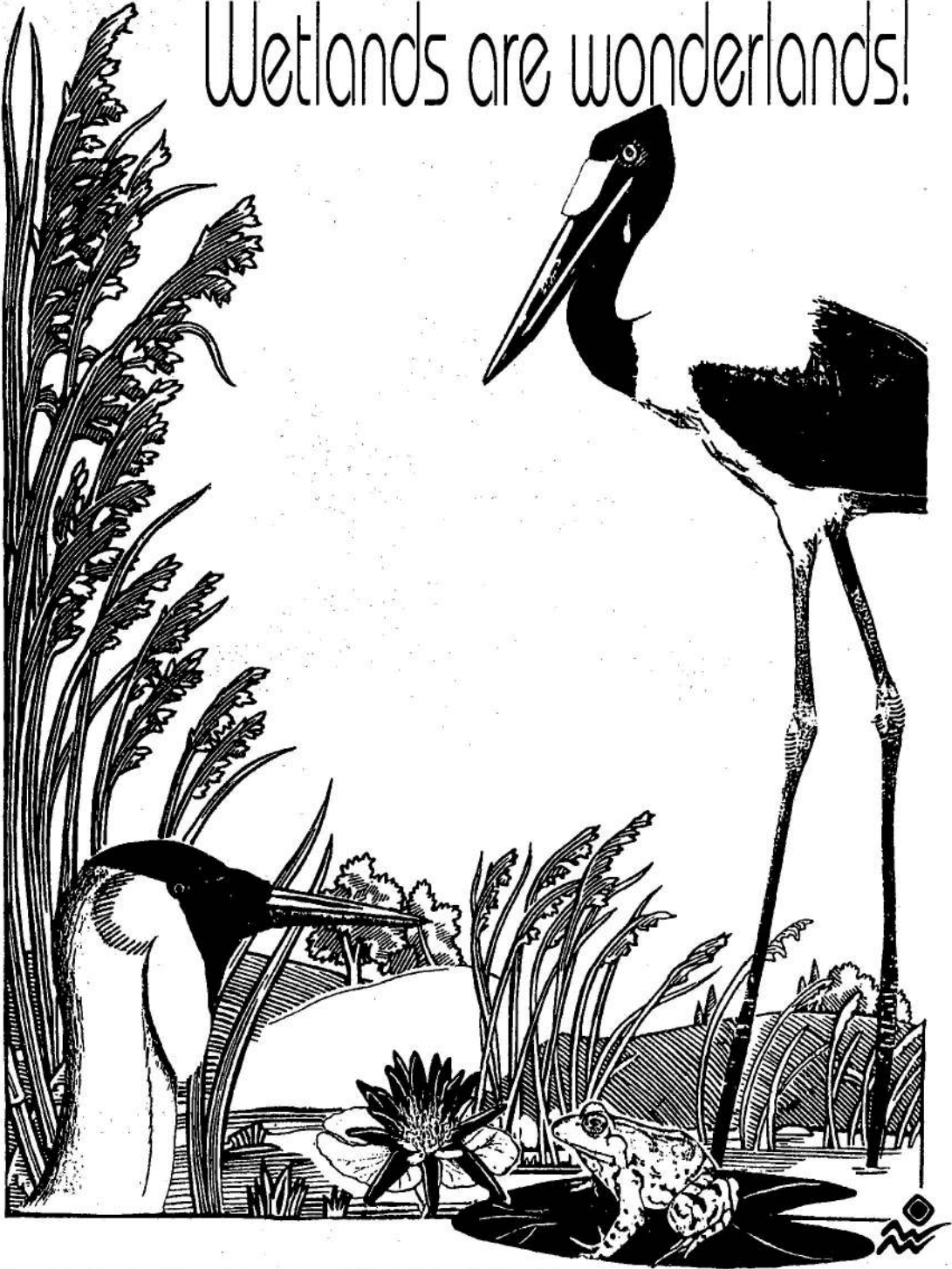
*Where is the largest amount of meteorological information in the whole of South Africa available?*



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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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