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AIDS HELPLINE: 0800-0123-22 Prevention is the cure

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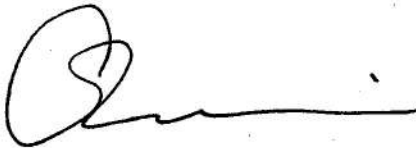
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GENERAL NOTICES

NOTICE 2098 OF 2001**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 Consumer Affairs Committee on the result of an investigation made by the Committee pursuant to General Notice 4282 of 2000 as published in Government Gazette No. 21765 dated 17 November 2000 and General Notice 4620 of 2000 as published in Government Gazette No. 21871 dated 8 December 2000, as set out in the Schedule.

**A ERWIN****MINISTER OF TRADE AND INDUSTRY****SCHEDULE**

CONSUMER AFFAIRS COMMITTEE

REPORT IN TERMS OF SECTION 10(1) OF THE CONSUMER AFFAIRS (UNFAIR BUSINESS PRACTICES) ACT, 1988 (ACT No. 71 OF 1988)

Report No 85

**KOBUS BRINK,
HUBNER 3749 CC, TRADING AS
EURO BUSINESS DEVELOPMENT AND
STEPHAN KESENOGILE**

1. Introduction

It is common knowledge that the Government intends to restructure the South African taxi industry. A number of Government Departments, such as the Department of Trade and Industry (DTI), are involved in this process. The Consumer Affairs Committee (the Committee)⁽¹⁾ received copies of letters and a copy of an advertisement, referring to "... the transformation of the taxi industry", from the Directorate: Legal Services of the DTI. The advertisement appeared in the City Press of 20 August 2000. The following appeared in the text of the advertisement.

WARNING

Don't miss this opportunity to apply for the **limited** issues of agency agreements regarding the transformation of the

Taxi industry which will be implemented before the 1st of October 2000. Agencies are accepted at

R15 000 per agency.

EURO BUSINESS DEVELOPMENT• EDB:

(011) 760-4456 (011) 760-5882 (011) 760-5230 Fax:(011) 760-2188

In an undated letter from Euro Business Development (Euro), to a prospective agency holder, the following is stated:

"We EBD (Euro Business Development) with association with many other organisations have decided to assist the Government in the re-capitalization process of the taxi industry, and therefore we need the helpful assistance of agents out there. The agents will be assistance to the transformation of the current ±120 000 taxi owners to ±80 000 owners of 18 and 35 passenger vehicles.

1. By qualifying as an agent on behalf of EBD you will be positioned to concluded agreements with current taxi owners.
3. The fee to which the agent shall be entitled to will be R1 250 per application.

To become involved in this highly profitable agency, you will be required to complete an application form and deposit R15 000 agency fee into our Attorney's Trust account with the purpose of finalising the agency agreement.

As there is only a limited amount of agencies available, all applications will accepted until 10 September 00 on which date all agency agreement must be in place".

(1) This statutory Committee, within the Department of Trade and Industry, was established in terms of section 2 of the Consumer Affairs (Unfair Business Practices Act), 1988 ("the Act"). The purpose of the Act is to provide for the prohibition or control of unfair business practices and for matters connected therewith. Unfair business practices are business practices which, directly or indirectly, have or are likely to have the effect of harming the relations between businesses and consumers, unreasonably prejudicing consumers, deceiving consumers or unfairly affecting consumers.

In a fax dated 28 August 2000 to a prospective client, Euro stated:

"As soon as we receive confirmation of payment of R15 000 into Brink Attorneys Trust Account at Mercantile Lisbon bank account with the undermentioned details on the 4th September 2000 as discussed we will furnish you with the relevant information". (The "Brink Attorneys Trust Account" was held at Mercantile Lisbon Bank, account 1006 763 945).

On 4 September 2000 an official of the Committee called one of the telephone numbers mentioned in the advertisement and spoke to a Ms Van Tonder (VanTonder). She appeared to be the secretary of Mr K Brink (Brink) of Brink Attorneys mentioned in the fax of 28 August 2000 referred to above. VanTonder appeared quite evasive and only ventured to say that Brink was moving to another office. On the same day, the official transmitted a fax to Brink and he responded. His letter was signed on his behalf by VanTonder. Her signature also appeared on the Euro letter referred to above. Attempts to speak to Brink on the phone were unsuccessful. The official also spoke to a Mr Kesenogile who said that Brink was not available. At its meeting on 29 September 2000 the Committee resolved to undertake a section 4(1)(c)⁽²⁾ investigation into the business practices of Brink and Euro.

2. The meeting with Brink on 12 October 2000

Officials of the Committee met with Brink on 12 October. He denied that he had any formal links with Euro apart from acting as its attorney. It appeared that Hubner 3749 CC (Hubner) traded as Euro. Brink said that Mr Stephan Kesenogile (Kesenogile) was a member of this close corporation and he suspected that another person, a Mr Radebe, was also a member. Brink stated that he and his client held discussions with officials of the DTI, at the offices of the DTI. He named two of these officials. One of these officials held the title "Director". At the end of the discussion, Brink undertook to furnish the Committee with the following:

- (a) a list of the names and the addresses of all persons with whom Euro concluded agency agreements,
- (b) a copy of the agency agreement,

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- (2) In terms of the Act the Committee can 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 unfair business practice which allegedly exists or may come into existence. Notice of section 4(1)(c) investigations are not published in the Government Gazette as opposed to section 8(1)(a) investigations. The purpose of a section 4(1)(c) investigation is to enable the Committee to make a more informed decision as to whether a section 8(1)(a) investigation is called for. The Minister of Trade and Industry is not empowered to make any decisions on the strength of a section 4(1)(c) investigation. He may do so in terms of a section 8 investigation.

- (c) a copy of the proposed agreement between the agent, on behalf of Euro, with current taxi owners and
- (d) the registration documents of Hubner CC.

At the request of the officials, Brink called Kesenogile and told him that the officials would be arriving at his offices in 10 to 15 minutes. Upon the officials' arrival they found the doors were locked and they could not obtain entry. Brink was not available when he was called and Kesenogile's telephone was not answered. Later evidence suggested that Brink never called Kesenogile and that his discussion with Kesenogile was a charade.

On 18 October 2000 an official contacted the director from DTI with whom Brink had apparently had a meeting regarding the taxi industry. This director denied that such a meeting took place.

On 19 October 2000 an official called Brink's office and spoke to VanTonder. She said that the promised documents would be made available to the Committee on 20 October 2000. She informed the Committee that they were not made available as promised, because she had been ill.

3. Complaints received

On 13 October 2000 two consumers, Mmes L H M B Makhanyane (Makhanyane) and M Lesaka (Lesaka), visited the offices of the Committee. The spokesperson was Makhanyane. She said that she responded to an advertisement which appeared in the City Press. She called the number in the advertisement and spoke to a certain Stephan. The officials established that this Stephan was Kesenogile. Makhanyane alleged that he did not appear to know what was going on and he suggested that she make an appointment with Kobus (Brink) at the offices of Euro. She went to Euro's offices and the deal was explained to her by Brink. Makhanyane, and two of her business associates, consequently paid R45 000 into Brink's trust account. She was adamant that they had to pay the amount before they were presented with the contract. Makhanyane alleged that she later went to Brink's office. He was not available and she spoke to VanTonder who issued her with a receipt for R45 000 and told her that approximately 200 applications for "licenses" had been received.

4. Brink "terminates" his mandate with Euro

On 20 October 2000 the Committee received a fax, dated 16 October 2000, from Brink. He stated that his client would immediately cease the activities relating to the enquiries of the Committee and that he had terminated the mandate with his client.

Brink was informed that:

- (a) The matter was not that uncomplicated and that his client should contact the Committee with a view to negotiating an agreement in terms of section 9 of the Act⁽³⁾.
- (b) The matter was far from closed because the Committee required certain information which he had at his disposal, such as the documents which were discussed on 12 October 2000.
- (c) He could not have paid all the money in his trust account to Euro, because, for example, Makhanyane and Lesaka, on behalf of Pride Trade Two CC, had not yet signed a contract with Euro.
- (d) Both Makhanyane and Lesaka alleged that they held negotiations with him, and not Kesenogile, in Euro's offices.
- (e) The director, with whom he alleged, on 12 October 2000 to have held discussions, denied that he ever spoke to him (Brink).

He was also asked to furnish the Committee with the names and addresses of the persons who each paid R15 000 or more into his trust account. Finally, he was requested to call an official of the Committee to arrange for a meeting on 26 October 2000. Brink informed the official that he already had other commitments scheduled for 26 October 2000 and that he would not be able to meet with the officials.

5. The Committee resolves to summons Brink, Kesenogile and VanTonder

At its meeting on 27 October 2000 the Committee resolved that the Chairperson of the Committee summons Brink, Kesenogile and VanTonder to appear before the Committee at its meeting on 10 November 2000.

6. Events between 27 October 2000 and 9 November 2000

On 31 October 2000, officials of the Committee visited the offices of Euro to serve the summons on Kesenogile. The officials were met at the door by a burly male who introduced himself as "Johan Nel" (Nel). Nel said that Kesenogile would be available later during the day. Nel refused to let the officials enter the office and he became quite aggressive and abusive. He called out a name and was joined by another male, burlier than himself. Nel threatened to beat (Afrikaans: bliksem) the officials and throw

(3) In terms of section 9 of the Act, when the Committee has decided to undertake an investigation, it may at any time thereafter negotiate with any person or body, with a view to making an arrangement which in the opinion of the Committee will ensure the discontinuance of a unfair business practice which exists or may come into existence and which is the subject to the investigation.

them down the steps. The officials thought it prudent to make good their retreat. It later appeared that the real name of "Johan Nel" was Andre Coetzee (Coetzee)⁽⁴⁾.

The officials next visited the office of Brink. It appeared that VanTonder was the only person at the office and she alleged that Brink was in court. She signed for the receipt of the summonses served on herself, Brink and Kesenogile to appear before the Committee on 10 November 2000. She said that Kesenogile would probably visit Brink's office the next day as he usually came around on Wednesdays. VanTonder alleged that she did not work for Brink, but for another attorney who shared the offices with Brink.

The following account of events may seem unnecessary, but they give an indication of the problems the Committee and its investigating officials encountered when they tried to contact Brink or set up a meeting with him. An official called VanTonder on Friday, 3 November 2000, to enquire whether she handed the summons to Brink. She said that she had not seen him since the officials served the summons on her on Tuesday, 31 October 2000. She also said that she had spoken to her employer about the summons and that she would call on 6 November 2000 to confirm whether or not she would attend the meeting of the Committee on 10 November.

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- (4) Coetzee featured prominently in Report 52: Tokin Electrical Projects (Pty) Ltd, Rich Development Corporation and Others, of the former Business Practices Committee. A direct result of this investigation was that the Minister of Trade and Industry published Notice 360 in Government Gazette 17823 of 7 March 97. Notice 360 read as follows:

"In this notice, unless the context indicates otherwise 'harmful business practice' means directly or indirectly inviting the public to enter into agreements in terms of which a person pays remuneration or any valuable consideration whatsoever to the parties in respect of transport contracts and transport franchises.

"The parties" means Tokin Electrical Projects (Pty) Ltd, trading as Highway Management Services, Mynderd Hendrikz (ID 531122 5025 00 2), also known as Dan Borman or Dan Hendrikz; Mitchum Boshoff; Rich Development Corporation CC (88/29863/23), Andre Edward Coetzee (ID 590610 5027 08 3) and Euodia Cynthia Coetzee (ID 670508 0206 00 4).

1. The harmful business practice is hereby declared unlawful in respect of the parties.
2. The parties are hereby directed to:
 - (a) refrain from applying the harmful business practice;
 - (b) cease to have an interest in a business or type of business which applies the harmful business practice or to derive any income thereof;
 - (c) refrain from at any time applying the harmful business practice; and
 - (d) refrain from at any time obtaining any interest in or deriving any income from a business or type of business applying the harmful business practice".

On 7 November 2000 Brink was requested, by fax, to confirm, before 16h00, that he will appear before the Committee. At 15h05 he informed the Committee that he would be unable to attend the meeting on 10 November 2000 because he had other commitments.

Brink was informed on 8 November 2000 about the provisions of section 5(4) of the Act⁽⁵⁾. He was again requested, by fax, to confirm before 16h00 that he would appear before the Committee. At 09h53 on 9 November 2000, at the request of VanTonder, a copy of section 5 of the Act was faxed to Brink's offices. He responded by fax at 11h58 and said that he had to represent a client in a civil court case in the Randburg Magistrate Court. At 12h25 he was informed, again by fax, that his letter was vague and that he did not indicate what efforts he had made to make other arrangements. Brink responded at 15h43 and said that the particular court case which he had to attend was already postponed previously to 10 November 2000. He was informed at 16h50, again by fax, that he often expressed his willingness to co-operate with the Committee. However, he neither furnished the information previously requested from him nor proposed an alternative date to meet with the Committee. He was also reminded of the fact that the summons was served on him on 31 October 2000. This was a day before the case in the Randburg Magistrate Court was allegedly postponed.

7. The meeting of the Committee on 10 November 2000

At the meeting of the Committee on 10 November 2000, Kesenogile and VanTonder testified under oath. The proceedings were recorded by an independent stenographer. The following is a summary of the most important issues raised during their testimonies. To make for easier reading, the use of words such as "said" and "alleged" will be minimised in the summaries of the testimonies.

7.1 The testimony of Kesenogile

Kesenogile reported to the Committee as follow. His mother used to work for Brink's mother as a domestic worker. An official established that she worked for Brink's mother for approximately five months in 2000. Kesenogile's mother asked Brink if he could employ him (Kesenogile) as he was unemployed.

Brink appointed Kesenogile, who had obtained his matric. He worked for Euro as an employee from February 2000. His duties were to take calls and messages and he informed the Committee that most of the conversations took place in Tswana.

(5) Section 5.4 of the Act states *inter alia*: "Any person who has been summoned to appear before, or to produce a book, document or other object to, the committee and who (a) without sufficient cause (the onus of proof of which shall rest upon him) fails to appear at the time and place specified in the summons ... shall be guilty of an offence".

He said that Euro is owned by Kobus Brink and Coetzee. Coetzee was one of his "bosses" and Coetzee appears to be a debt collector. Brink and Coetzee shared an office, although they used to come to the office, stay for an hour or so and then leave. The office was equipped with telephones on three lines, a fax, a photocopier and desks. He signed documents on the instructions of Brink and Coetzee and faxed these documents to people. Euro received on average 10 calls per day. Some callers asked for Brink. He was told by Brink and Coetzee not to tell anyone that they are the owners or "... actually working here".

Kesenogile was promised a basic monthly salary of R1 000, but some months he would receive only R400. He was usually paid by Brink, but at times he received money from Coetzee. Kesenogile understood that Euro was in the "trucking business" and did deals with people in Botswana. Coetzee and Brink placed advertisements in a Botswana newspaper. Some of the calls he received were from people living in Botswana. People were asked to pay deposits for trucks. The deposits varied between R5 000 and R50 000. Nearly all the people who called were from the African community and he talked to them in Tswana. Coetzee and Brink held several accounts with the Botswana Building Society in Botswana. The accounts were in the names of Brink Attorneys Trust Account, André Coetzee and Kobus Brink.

Kesenogile was asked if he knew that he signed documents as a member of Hubner 3749 CC. He answered that he did not. When asked how Brink managed to obtain his identity details, he stated that VanTonder wanted his identity document to

"... register me so that I can work for them permanently. So there was one time Mr Brink came and then he said he was in a hurry, he had to catch a plane somewhere and then I must, can I just put my signature there. So to be honest, I just thought that those documents show that they were going to register me".

He stated that he did not have an opportunity to read the documents because "... they (it appears he referred to Brink) never gave me chance to read them".

Kesenogile signed Euro letters. He was specifically asked about the letter referred to in section 1 and confirmed that the signature on the letter was his. Brink and Coetzee placed the Euro advertisements in the newspapers. If someone responded to the advertisement, Kesenogile had to ask for their fax numbers. He then made a copy of the letter referred to and faxed it, together with application forms, to these persons.

He met Lerato (Makhanyane) at the Euro offices. She responded to an advertisement and he was told that when someone calls from the Gauteng area, he must arrange an interview for them at the Euro office. He said she was interviewed by Coetzee and Brink. When asked what the taxi agency involved, Kesenogile replied:

"When they first told me about the taxi agency they said, the agents that they're looking for it's someone like who's going to work hand in hand with the taxi owners in making applications for the new 35 seaters. Then that particular applicant would pop out a certain amount and that agent will get a certain commission and then the other amount would come to Euro Business Development".

Coetzee told him that if anyone, particularly white people, were to come to the Euro offices, he must not open the door. Kesenogile was asked if, at any stage, but specifically on 12 October 2000 (see section 2), Brink told him to leave the offices. He said that Brink did not call him, but VanTonder did. She told him:

"... there are people who are going to come over and then she's, they're going to ask me questions that I cannot answer, so I better lock up the offices and leave".

He said he then called her to enquire for how long he should leave the offices. She then allegedly said: "... I must get the hell out of there, immediately".

7.1 The testimony of VanTonder

VanTonder is no longer employed by Brink as secretary because she resigned on 1 October 2000 on a month's notice. She knew nothing about Euro, except that she did a "... a few contracts for them in my capacity as secretary for the Brink". She "... just spoke once a while with Mr Stephan Kesenogile and that's all". She understood that Kesenogile was the owner of the company (the "company" being Euro). She knew this because close corporation documents stated that he is the owner of the "company". When asked where she saw those documents she replied that she had drafted the documents. She also delivered the signed documents to the Registrar of Companies and Close Corporations.

When asked whether those who paid for the agencies received the contracts before or after the money was deposited in Brink's trust account, she said the lady concerned, Makhanyane, received the contract after she had deposited the money.

She was referred to the meeting officials held with Brink at his office on 12 October 2000 (see section 2). She was asked whether she called Kesenogile, after the officials left, and told him to lock the Euro offices and leave. She replied: "I phoned him, yes. I told him that Mr Brink said that there's some people who are on their way to his offices and that was the only thing I've told him".

She was asked whether it as was normal procedure for her to call Kesenogile to inform him that he could expect visitors. She answered: "Ja, because they normally lock up the doors in the CBD of Roodepoort is very scary, there's people going around and there's robberies and everything. So they close their doors and they don't open their doors unless I've said to them, listen, there's somebody coming in. Even when I know, when I sent once a client to them, the same lady who's paid the money, I need to have phoned them prior and said that she's on her way and they need to open for her".

VanTonder made a cheque payable from the Trust Account of Brink for R30 000, in the favour of Kesenogile. She could not remember whether the cheque was crossed, but volunteered that all the "... trust cheques were crossed, but I don't know how that moneys was paid out or whatsoever. I've never seen the cheque come back from the bank yet".

In section 3 it was stated that VanTonder told Makhanyane that approximately 200 applications for "licenses" were received. VanTonder responded to this allegation by saying:

"That's what they've told me, but as I said, the only dealings which I have done was with her (Makhanyane). I said to them and that's and I said to her that that is the amounts which was said to me which they've received, because the people said to me they're only going to accept 20 people for franchisees, but they have received 200 applications which they need to work through".

VanTonder said Brink told her that 200 applications for licences were received. When she was asked whether she met a Mr Coetzee she replied that she did not know. She denied placing advertisements in the press for Brink.

7.3 The resolution of the Committee

The Committee noted at 12h00 that Brink was summoned to appear at 11h00. He failed to do so and the Committee received information from VanTonder that Brink was in court and he did not intend to appear before the Committee. The Committee was of the opinion that Brink had been given the opportunity to answer the various allegations and explain his involvement in Euro to the Committee and that he had failed to do so.

It was clear from the evidence of Kesenogile that Brink is involved in Euro and therefore it is necessary for the Committee to continue with its investigation. The Committee resolved to proceed with a section 8(1)(a) investigation into the business practices of Brink, Euro Business Development and Kesenogile and any other employees who may be involved in the business. Further, there is evidence that André Coetzee is also involved in Euro.

Coetzee was involved in a previous investigation by the former Business Practices Committee. In terms of Notice 360 of 1997, Coetzee was prohibited from being involved in any agreement involving transport contracts and transport franchises and receiving remuneration or any other valuable consideration in respect of such contracts⁽⁶⁾. It is apparent that, if this is correct, Coetzee is contravening Notice 360 and is therefore committing a criminal offence. The Committee recommended that the matter be referred to the South African Police Services for further investigation.

9. Brink informed of the resolution by the Committee

At 09h40 on 13 November 2000, a copy of the proposed section 8(1)(a) investigation was faxed to Brink. He was informed that the notice would be published in the Government Gazette of 17 or 24 November 2000. At 15h50, on the same day, he

(6) See also footnote 4.

transmitted a fax to the Committee in which he requested alternative dates on which to address the Committee. On 14 November, at 09h10, he was informed by fax that he was welcome to address the Committee at its next meeting on 1 December. He was requested to prepare a written submission and submit it to the Committee on or before 22 November 2000. He was also asked to call the secretary of the Committee on or before 20 November 2000 to arrange for a time to meet with the Committee.

At 16h45 on 20 November 2000 an official of the Committee called Brink's offices and spoke to VanTonder. She said that "they" were under the impression that they had to inform the Committee on 21 November 2000 whether Brink would attend the meeting on 1 December 2000. She told the official that she would call back on 21 November 2000. She did not call back. On 23 November 2000 the Committee again reminded Brink by fax that the information required by the Committee was still outstanding. He was also informed that he was scheduled to appear before the Committee on 1 December 2000.

10. Publication of the first notice of the section 8(1)(a) investigation

The following was published under Notice 4282 in Government Gazette 21765 dated 17 November 2000.

"In terms of the provisions of section 8(4) of the Consumer Affairs (Unfair Business Practices) Act, 1988 (Act No. 71 of 1988), notice is herewith given that the Consumer Affairs Committee intends undertaking an investigation in terms of section 8(1)(a) of the said Act into the business practices of -

Hubner 3749 CC, trading as Euro Business Development, Stephan Kesenogile (ID 760819 5533 081), attorney Kobus Brink (ID 700305 5046 087) and any member employee, agent and/or representative of any of the aforementioned in respect of the activities of Euro Business Development.

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, Consumer Affairs Committee, Private Bag X84, PRETORIA, 0001. (T) 012-310-9562 (F) 012-320-0579. Ms L van Zyl".

The Vice-chairperson of the Committee issued a press statement on 29 November 2000 about the impending section 8(1)(a) investigation into the business practices of Euro, Kesenogile and Brink.

11. A letter dated 28 November 2000 to Coetzee

On 28 November 2000 the Committee informed Coetzee that it had become aware of his involvement with Euro and before an amended section 8(1)(a) notice, which would

include his name, was published, the Committee wished to afford him the opportunity of explaining his involvement with Euro. He was requested to call an official of the Committee before 12h00 on 29 November 2000 to arrange for a mutually acceptable time to meet with the Committee.

Attempts were made to deliver the letter by hand to his home address, the Euro offices and the offices of Brink. Nobody answered the bell when the officials visited his home and the letter was left in what appeared to be a slit in the wall for post. The Euro offices in Roodepoort were closed and a tenant in the building told the officials that Euro had moved to Orlando in Soweto. At the offices of Brink the officials were told by a secretary that Brink was in court and that he no longer represented Coetzee. The letter to Coetzee was left with the secretary.

12. Publication of the second notice of the section 8(1)(a) investigation

The following was published under Notice 4620 in Government Gazette 21871 dated 8 December 2000.

"In terms of the provisions of section 8(4) of the Consumer Affairs (Unfair Business Practices) Act, 1988 (Act No. 71 of 1988), notice is herewith given that the Consumer Affairs Committee intends undertaking an investigation in terms of section 8(1)(a) of the said Act into the business practices of -

Hubner 3749 CC, trading as Euro Business Development, Stephan Kesenogile (ID 760819 5533 081), attorney Kobus Brink (ID 700305 5046 087), Andre Edward Coetzee (ID No 590610 5027 08 3) and any member, employee, agent and/or representative of any of the aforementioned in respect of the activities of Euro Business Development.

This notice broadens Notice 4282 of 2000 that was published in Government Gazette 21765 on 17 November 2000 by extending the investigation to Andre Edward Coetzee.

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, Consumer Affairs Committee, Private Bag X84, PRETORIA, 0001. (T) 012-310-9562 (F) 012-320-0579 Ms L van Zyl".

Copies of the Notices 4282 and 4620 were faxed to the South African Taxi Council. The association was also requested if it or its members could furnish the Committee with any information about the business practices of Euro, Brink, Coetzee and Kesenogile that might assist the Committee with its investigation.

13. Bank statements of Brink Attorneys Trust Account

In terms of section 7(3) of the Act, the Committee requested copies of the bank statements of Brink Attorneys Trust Account for the period August to December 2000 from two banks where Brink held such accounts. The Committee wanted to establish how many deposits of R15 000 or multiples thereof were deposited into these accounts. These figures could indicate how many consumers bought agencies from Euro and based on this assumption it appeared that four consumers bought agencies from Euro. It is also possible that some buyers paid deposits of varying amounts and it is thus impossible to establish exactly how many consumers bought the agencies.

Brink certainly knows how many consumers were involved, but it is clear from the events described in this report that Brink does not intend to co-operate with the Committee.

14. Consideration

The advertisement placed by Brink and/or Coetzee about "agency agreements" regarding the transformation of the taxi industry was misleading because no agencies existed. Euro's (Brink and Coetzee) claim to "... assist the Government in the re-capitalization process of the taxi industry" was an attempt to mislead consumers into believing that it had formal contacts with Government.

The denial by Brink on 12 October 2000 that he had no formal links with Euro is untrue. He, for example, held discussions with Mmes Makhanyane and Lesaka at the offices of Euro and he gave instructions to Kesenogile. His statement that he held discussions with officials of the DTI, at the offices of the DTI, is also untrue. It is apparent that Brink had a lot to hide and went out of his way to avoid meeting with investigating officials of the Committee or the Committee itself.

The Committee was impressed by the evidence of Kesenogile and is of the opinion that he presented an accurate picture of the facts. It is clear that he acted, without his knowledge, as a front for Brink and Coetzee because of his ability to speak Tswana. He was employed by Brink and Coetzee and was told not to tell anyone that Brink and Coetzee were the real owners of Euro. In the light of the fact that Kesenogile seems to have been an unsuspecting pawn in Coetzee and Brink's scheme, the Committee does not deem it necessary to include his name in the recommendations which are made to the Minister.

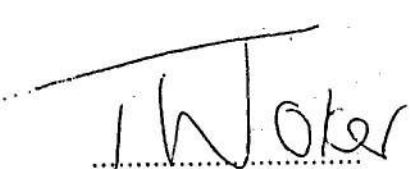
The Committee was less impressed by the testimony of VanTonder. She was a nervous witness who appeared to be protecting Brink and Coetzee.

Brink and Coetzee devised a "business practice" to take money from unsuspecting consumers. These business practices constitute unfair business practices in terms of the Act. There are no grounds justifying the practices in the public interest.

15. Recommendation

The Committee recommends that the Minister under section 12(1)(b) of the Act,

- (a) declare unlawful the business practice whereby Hubner 3749 CC, Euro Business Development, Kobus Brink (ID700305 5046 087) and Andre Edward Coetzee (ID No 5906105027083), directly or indirectly,
 - (i) offer any opportunity whatsoever to any natural or juristic person in the taxi industry and
 - (ii) accept any consideration whatsoever for any service provided by them, individually or jointly, to any natural or juristic person relating to any aspect of the taxi industry.
 - (iii) place any advertisement or type of advertisement in any advertising medium whatsoever in which any opportunity whatsoever to any natural or juristic person in the taxi industry is offered.
- (b) in terms of section 12(1)(c) of the Act directs Brink and Coetzee to refrain from applying the unfair business practice.

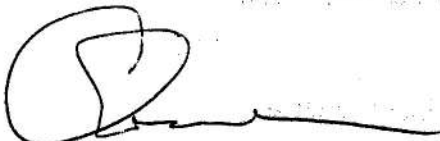


PROF T A WOKER

VICE-CHAIRPERSON: CONSUMER AFFAIRS COMMITTEE

NOTICE 2100 OF 2001**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 Consumer Affairs Committee in relation to an investigation of which notice was given in General Notice 4282 of 2000 as published in Government Gazette No. 21765 dated 17 November 2000 and General Notice 4620 of 2000 as published in Government Gazette No. 21871 dated 8 December 2000, which report was published in Notice 2098 in Government Gazette No. 22710 of 28 September 2001, and being of the opinion that an unfair business practice exists which is not justified in the public interest, do hereby exercise my powers in terms of section 12 (1) (b) and (c) 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 -

"unfair business practice" means the business practice whereby the parties, directly or indirectly

- (i) offer any opportunity whatsoever to any natural or juristic person in the taxi industry and
- (ii) accept any consideration whatsoever for any service provided by them, individually or jointly, to any natural or juristic person relating to any aspect of the taxi industry.

- (iii) place any advertisement or type of advertisement in any advertising medium whatsoever in which any opportunity whatsoever to any natural or juristic person in the taxi industry is offered.

"the parties" means Hubner 3749 CC, Euro Business Development, Kobus Brink (ID700305 5046 087) and Andre Edward Coetzee (ID No 5906105027083),

1. The unfair business practice is hereby declared unlawful in respect of the parties.

2. The parties are hereby directed to -

- (a) refrain from applying the unfair business practice;
- (b) cease to have any interest in a business or type of business which applies the unfair business practice or to derive any income therefrom; and
- (c) refrain from at any time applying the unfair business practice.

3. This notice shall come into operation upon the date of publication hereof.

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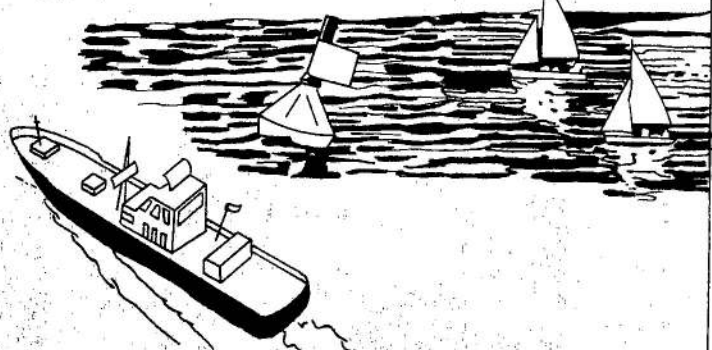
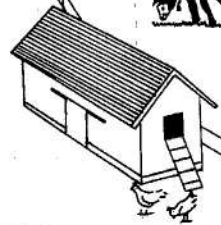
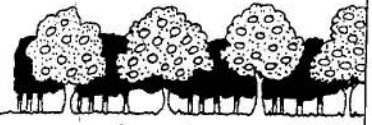
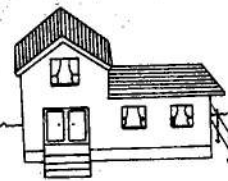
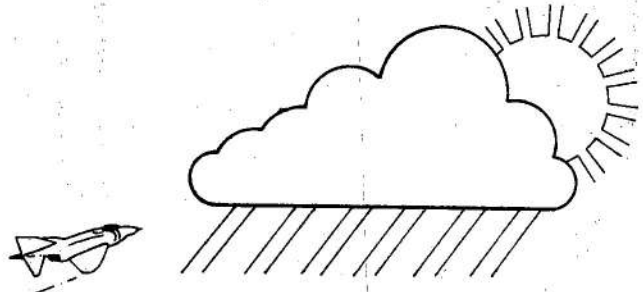
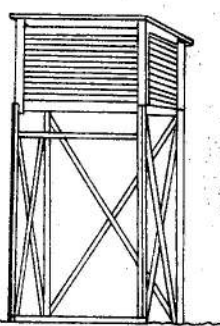
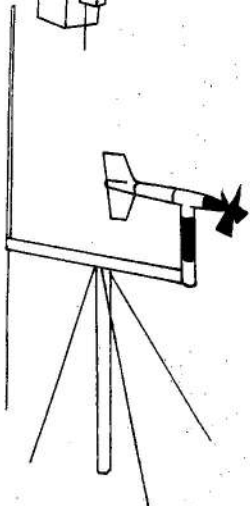
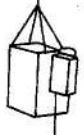
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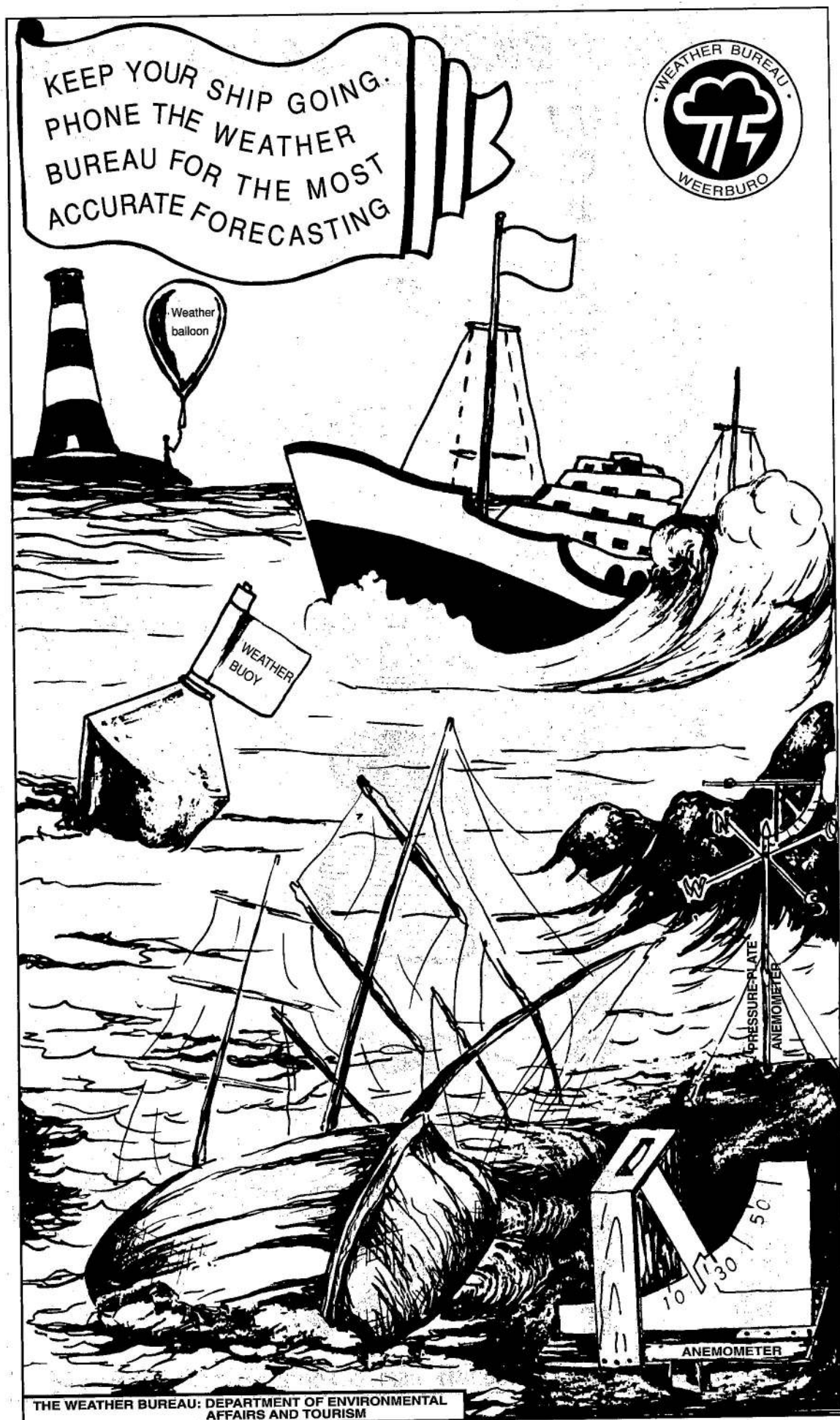
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